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Addendum

Annex

Report on the situation of human rights in Iraq, prepared by Mr. Max van der Stoel, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1991/74*

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* Previously issued under the symbol E/CN.4/1992/31.

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Introduction

A. Mandate of the Special Rapporteur

1. The mandate of the Special Rapporteur was created and is defined by Commission on Human Rights resolution 1991/74, of 6 March 1991, entitled "Situation of human rights in Iraq". In that resolution express reference was made to various serious human rights violations affecting the population as a whole, namely "enforced or involuntary disappearances, mass extrajudicial executions, torture and arbitrary detention", together with denial of "freedom of expression and of the press". With reference specifically to the Kurdish population, the Commission expressed concern at the use of chemical weapons "on the Kurdish civilian population, ... the forced displacement of hundreds of thousands of Kurds and the destruction of Kurdish towns and villages ... and ... the deportation of thousands of Kurdish families".

2. In the same resolution, taking into consideration the report of the Commission's Working Group on Enforced or Involuntary Disappearances (E/CN.4/1991/20, paras. 217-236), the report of the Commission's Special Rapporteur on summary or arbitrary executions (E/CN.4/1991/36, paras. 269-289) and resolution 1990/13 of the Subcommission on Prevention of Discrimination and Protection of Minorities of 30 August 1990, the Commission expressed its "grave concern at the flagrant violations of human rights by the Government of Iraq". In that connection, it urged the Government of Iraq "to ensure full respect for human rights and fundamental freedoms" and, in particular, to halt the "arbitrary and summary executions as well as the arbitrary detention of political and religious opponents"; to put an end to "the practices of enforced or involuntary disappearances and the practice of torture"; and "to guarantee full respect for human rights of all persons in Iraq irrespective of their origin, halt deportation of Iraqi citizens and allow the deported persons to return to their villages of origin and receive reparation for the damage suffered as a result of their forced displacement".

3. Also in it resolution 1991/74, the Commission requested its chairman to appoint a special rapporteur to make "a thorough study of the violations of human rights by the Government of Iraq" based on all information the special rapporteur might deem relevant, including information provided by intergovernmental and non-governmental organizations and any comments and material provided by the Government of Iraq. The Commission also urged the Government of Iraq to cooperate with the Commission and "to afford all necessary assistance to the Special Rapporteur".

4. Prior to the submission of a report to the forty-eighth session of the Commission on Human Rights, and in the course of study of the situation of human rights in Iraq, the Special Rapporteur was required by the terms of resolution 1991/74 to submit an interim report to the General Assembly at its forty-sixth session.

5. In its decision 1991/256 of 31 May 1991, the Economic and Social Council approved the requests of the Commission contained in resolution 1991/74.

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6. Pursuant to Commission resolution 1991/74 and Economic and Social Council decision 1991/256, the Chairman of the Commission, after consultation with the Bureau, appointed Mr. Max van der Stoel as Special Rapporteur on 25 June 1991.

7. Respecting the terms of Commission resolution 1991/74, the Special Rapporteur subsequently took up the mandate and submitted an interim report to the forty-sixth session of the General Assembly. That report, contained in document A/46/647 of 13 November 1991, essentially reproduced an exchange of correspondence between the Special Rapporteur and the Government of Iraq, to which the Special Rapporteur added some "general considerations" in as much as he did not then feel sufficiently able to render any definitive conclusions.

8. In determining the parameters of his mandate, the Special Rapporteur was limited by resolution 1991/74 to consideration of "violations by the Government of Iraq". There has therefore been no consideration of violations of human rights committed by other parties, though it is clear from the information available to the Special Rapporteur that such violations have occurred.

9. As concerns the absence of express limitations relating to both the period of time during which violations of concern to the Special Rapporteur may have occurred and the territory upon which they may have occurred, the Special Rapporteur has found it necessary to focus on violations having occurred in recent years and in the territory of Iraq. The focus on recent years is explained mostly by the quality of information available. However, in as much as recent and continuing violations may be directly related to past violations and to a continuing system, the Special Rapporteur has examined issues and reports concerning events which occurred even earlier. With respect to territory, and in view of the fact that the Commission on Human Rights had also appointed a Special Rapporteur to study the "situation of human rights in occupied Kuwait", it was thought appropriate to concentrate on violations having occurred in the territory of Iraq, although the Special Rapporteur is cognizant of allegations of violations having occurred in the territory of the Islamic Republic of Iran during the Iran-Iraq war and allegations of violations, including political killings, having affected persons on the territories of other States.

10. Subsequent to the Special Rapporteur's submission of his interim report, his presentation to the Third Committee of the General Assembly on 19 November 1991, and the subsequent debate in that forum, the General Assembly adopted resolution 46/134 on 17 December 1991, by a vote of 129 to 1, with 17 abstentions.

B. Activities of the Special Rapporteur

11. The Special Rapporteur was assisted in his task by Mr. John Packer, Associate Human Rights Officer in the Centre for Human Rights. In performing his task, Mr. Packer showed great skill, and, moreover, a willingness to work harder than could reasonably be demanded for many months on end. The Special Rapporteur also expresses his gratitude to Mr. Georg Mautner-Markhof, Chief of the Special Procedures Section of the Centre for Human Rights, who was always prepared to help and to provide advice. Lastly, he expresses his thanks for the valuable assistance provided by Mr. Gudmundur Alfredsson, Human Rights

Officer in the Centre for Human Rights, and to United Nations interpreters Ms. Leila Dimitry and Ms. Nadia Abu-Rida, who accompanied him during his journey to Iraq, Iran and Saudi Arabia.

12. In taking up his responsibilities to study the situation of human rights in Iraq, the Special Rapporteur sought information from various sources and made himself available to any and all who cared to submit information in person or by other means. On this basis, information was received from a wide variety of non-governmental organizations (see annex I) and individuals. However, in the process of information collection, it immediately became clear that testimony from victims and eye-witnesses would not be readily forthcoming (even outside Iraq) owing to an overwhelming fear of reprisals against these individuals or their families, a fear which became the subject of the Special Rapporteur's concern. The Special Rapporteur therefore found it necessary to travel to London on three occasions to meet with persons in conditions that they felt provided them with sufficient security. The Special Rapporteur also received testimony in Geneva and The Hague.

13. With the agreement of the Government of Iraq, the Special Rapporteur undertook a visit to Iraq from 3 to 9 January 1992. In the course of this visit, and in accordance with his own wishes, the Special Rapporteur spent two and a half days in Baghdad, one day in the southern cities of Najaf and Karbala, two days in the Autonomous Region of Kurdistan, and one morning in Abu Graib prison west of Baghdad. During this visit, he was received by the Minister for Foreign Affairs, the Minister of the Interior, the Minister of Labour and Social Affairs, the Minister of Awqaf and Religious Affairs, the Minister of Justice, and the Deputy Prime Minister. Other government interlocutors included members of the Consultative Committee on Human Rights to the Ministry of Foreign Affairs, the Governors of Najaf and Karbala, the President of the Court of Cassation and the Director of Abu Graib prison. The Special Rapporteur also met with the Acting Governor of Arbil. Non-governmental interlocutors included: the members of the Board of Directors of the Human Rights Society in Iraq, the Secretary General of the Union of Arab Jurists' Iraqi Branch, the Grand Ayatollah Sayyid Abul Qasim Al-Khoie together with his son Mohammed Taqi Al-Khoie, the leaders of three Christian communities in Iraq (said to be representing all Christians in Iraq), representatives of the Arbil and Sulaimaniya Branches of the Organisation of Human Rights in Kurdistan, representatives of the Arbil and Sulaimaniya Committees for Investigation of Disappeared Kurdish Citizens, Mr. Massoud Barzani (leader of the Kurdistan Democratic Party) and Mr. Jalal Talabani (leader of the Patriotic Union of Kurdistan). In addition, the Special Rapporteur received oral testimony in the Autonomous Region of Kurdistan from numerous victims and eye-witnesses of alleged human rights violations, and was also presented with significant quantities of written allegations and documentary evidence. In Abu Graib prison, the Special Rapporteur was able to review some records in the "heavy section" and to speak with a few prisoners in both the "heavy" and "special" sections. Throughout the course of his visit, the Special Rapporteur also visited various sites of relevance to his mandate and took note of the general conditions affecting the economic rights of the people.

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14. Following his visit to the Republic of Iraq, the Special Rapporteur travelled to the Islamic Republic of Iran and then to the Kingdom of Saudi Arabia in order to hear testimony from Iraqi refugees who claim to be victims and eye-witnesses of human rights violations committed by the Government of Iraq. In the Islamic Republic of Iran, the Special Rapporteur visited the refugee camps of Kangavar and Sefid Chegha in Bakhtaran province on 13 and 14 January 1992, and Ashrafi Isfahani and Ansar camps in Khouzestan province on 15 January 1992. While in Ahwaz on the evening of 15 January 1992, the Special Rapporteur also heard testimony from Iraqi refugees living outside the camps and from persons who had previously been expelled from Iraq. In Saudi Arabia, the Special Rapporteur visited the refugee camps of Artawiya and Rafha on 17 and 19 January 1992, respectively. Like the testimony received some days earlier in the Autonomous Region of Kurdistan, the testimony received in the refugee camps of Iran and Saudia Arabia proved to be most valuable.

15. In connection with his mandate, the Special Rapporteur took note of the last two periodic reports submitted by the Government of Iraq to the Human Rights Committee (the second periodic report dated 21 April 1986, contained in document CCPR/C/37/Add.3, and the third periodic report dated 5 June 1991, contained in document CCPR/C/64/Add.6) and the last two periodic reports submitted to the Committee on the Elimination of Racial Discrimination (the ninth periodic report dated 7 December 1987, contained in document CERD/C/159/Add.2, and the tenth periodic report dated 9 October 1989, contained in document CERD/C/185/Add.2). The Special Rapporteur also consulted the summary records of the meetings at which those reports were addressed (the 744th to 748th and 1080th to 1082nd meetings of the Human Rights Committee, and the 917th and 920th to 922nd meetings of the Committee on the Elimination of Racial Discrimination). Further, the Special Rapporteur took note of the relevant parts of the report of the Committee on the Elimination of Racial Discrimination to the General Assembly (A/46/18, paras. 248-258) and the report of the Human Rights Committee to the General Assembly (A/46/40, paras. 618-656).

16. In addition to these primary sources of information, the Special Rapporteur received significant documentary material in the form of written documents, photographs, video-cassettes and audio-cassettes. Portions of this material are said to be official records of the Government of Iraq which were found in government security centres during the uprisings of March 1991.

17. The Government of Iraq cooperated with the Special Rapporteur by arranging his meetings with a number of Ministers. However, his requests for meetings with the President and the Minister of Defence remained unanswered. The Government did, however, facilitate his visits to the Grand Ayatollah Al-Khoie and to Abu Graib prison. The cooperation of the Governments of Iraq and of Saudi Arabia in facilitating the Special Rapporteur's travel to the refugee camps mentioned above is to be noted.

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I. OBLIGATIONS UNDERTAKEN BY IRAQ

A. Applicable instruments

18. Mr. Tariq Aziz, the Deputy Prime Minister of Iraq, urged the Special Rapporteur during his visit to show "at any rate some degree of objectivity". The Special Rapporteur replied that he was neither applying the standards of others nor his own subjective standards; the only yardstick he intended to use was the treaties in the field of human rights to which Iraq had become a party.

19. The applicable standards of international law reside primarily in the obligations freely undertaken by Iraq as a result of its accession to the following instruments: the Charter of the United Nations; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Prevention and Punishment of the Crime of Genocide. Other significant conventions that Iraq has freely accepted include the four Geneva Conventions of 12 August 1949.

20. In addition to conventional instruments of international law, applicable standards also reside in obligations arising under customary international law. In this connection, the basic tenets of the Universal Declaration of Human Rights and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to name two other significant instruments, are relevant.

21. With regard to the origin of these obligations, the Special Rapporteur categorically rejects the arguments advanced by Deputy Prime Minister Tariq Aziz, during their meeting of 8 January 1992, to the effect that "standards of Europe and the West" have been thrust upon Iraq and are simply impossible to meet. Such an argument is patently false in so far as the standards of each convention mentioned above were freely accepted by the Government of Iraq upon its accession to the instruments. Moreover, it must be noted that Iraq voted in favour of the General Assembly resolution adopting the text of the Universal Declaration of 10 December 1948 (resolution 217 A (III), adopted by a vote of 48 in favour with 8 abstentions and none against), while the Declaration on Torture of 9 December 1975 (resolution 3452 (XXX)) was unanimously adopted. Consequently, these standards apply not as those of "Europe and the West" but as conventional obligations of Iraq or as universal norms of international law.

B. The relevance of special circumstances

1. Introduction

22. The notion of "special" or "exceptional circumstances" is known to international law as such circumstances as may require the application of special standards or permit derogation from the application of normal standards. Such a notion is specifically foreseen by and accommodated in international human rights instruments.

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23. In as much as the issue of special circumstances was raised by the Government of Iraq in its first reply to the memorandum of the Special Rapporteur (see A/46/647, pages 18-21 and 57), and was subsequently repeated at each meeting between the Special Rapporteur and a minister of the Government of Iraq, at the meetings of the Special Rapporteur with the Governors of Najaf and Karbala, at the meetings of the Special Rapporteur with the Consultative Committee on Human Rights of the Foreign Ministry, and again in the Government of Iraq's second reply (dated 23 January 1992) to the Special Rapporteur's inquiries, it is evident that the relevance of special circumstances to the situation of human rights in Iraq must here be addressed. Specifically, it is necessary to reply to the Government of Iraq's various invocations of: "abnormal circumstances", "this difficult situation", "wartime conditions", "*force majeure*", "the Iraq-Iran war", "conditions of foreign occupation and intervention", "the Gulf war in 1991", "the disturbances", "chaos, disorder and armed rebellion", "the circumstances with which the country has been faced, and is still being faced, as a result of the on-going economic embargo", the situation of "a developing country", and the situation of a country with "its own particularities and indigenous values". Indeed, the clearest and most sweeping reference, aside from those offered in person to the Special Rapporteur by various representatives of the Government, is to be found in the second reply of the Government in the section headed "Paragraph 60": "the abnormal circumstances with which the country was faced had adverse effects on human rights, for reasons beyond our control." As such, it is evident that the Government of Iraq contends that "abnormal circumstances" caused human rights violations to occur for which the Government is not to be held responsible - either because the violations are not imputable to the Government or because the violations are imputable to the Government but are somehow to be excused by the circumstances.

2. The relevance of war to human rights

(a) In general

24. Regardless of who may be responsible for the initiation of a war, and faced with the reality that war or armed conflicts short of war continue to inflict their pain on humanity, international human rights law requires that its norms continue to be respected. These norms admit, however, to a sub-order which accords with the special laws that may be permissible under the derogation clauses of international human rights law. The law of derogation is considered in greater detail below. Nonetheless, it is worth mentioning at this point that should the Government of Iraq have chosen to invoke the law of derogation, such measures as it might have sought so to justify would have to have accorded with the strict requirements of the exigencies of the situation and could not have been inconsistent with other obligations under international law. Moreover, there is a long list of human rights standards (including what some call the "fundamental rights" to life, freedom from torture, freedom of thought, etc.) that simply must be respected fully at all times and in every circumstance.

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(b) The Iran-Iraq war

25. With respect to the Government of Iraq's references to the period of the Iran-Iraq war as a period of abnormal circumstances somehow mitigating the Government's responsibility for human rights violations, the Special Rapporteur finds this argument untenable primarily because there is no relation in law or in logic between the existence of a state of emergency like a war and the commission of the various egregious acts of which the Government has been accused, such as widespread and systematic torture and arbitrary or summary execution of civilians or combatants. In this last respect, it must be noted that even the tenets of international humanitarian law (which may be said to be largely embodied in the four Geneva Conventions of 1949, to which Iraq is a party) prohibit such acts as are attributed to the Government. Moreover, the Special Rapporteur observes that many of the allegations of violations by the Government of Iraq relate to events that took place well outside the actual war zone, while many other allegations relate to events before or after the period of the war which began with Iraq's attack on Iran in September 1980 (see Security Council document S/23273) and continued to the ceasefire of July 1988.

(c) The Gulf War of 1991

26. For the same reasons as expressed in paragraph 25, the Special Rapporteur cannot accept the argument of the Government of Iraq that its responsibility is mitigated or removed by the events of the war that it initiated with the invasion of the sovereign State of Kuwait on 2 August 1990 and that concluded with its withdrawal from Kuwait on 26 February 1991. The waging of aggressive war, most clearly demonstrated by the armed invasion and occupation of another sovereign State, not only is not an excuse for human rights violations, but is absolutely incompatible with the notion of respect for human rights. In any event, the events of the Gulf crisis were also limited in time and space: the great majority of allegations refer to events before and after the period of the crisis, while many others refer to events well beyond the theatres of armed conflict.

3. The relevance of civil disturbances

27. Subsequent to the withdrawal of Iraq from the territory of Kuwait, popular uprisings were initiated in the essentially Shi'a southern cities and the essentially Kurdish northern cities of the country. These uprisings, which the Government of Iraq has characterized as "armed rebellion" and has said could "under no circumstances be regarded as an 'intifada'" (A/46/647, p. 20), were of such a nature as to have rendered several of the cities in question under the control of the insurgent forces for some days, while large parts of the Autonomous Region of Kurdistan remain today essentially in the hands of the insurgents. Under these circumstances, and notwithstanding the continuing validity of human rights standards throughout the duration of the conflicts, it is evident that the conflicts were of such a nature as to have reached the threshold of applicability of Article 3 common to the four Geneva Conventions of 1949. In addition to these standards, and though Iraq is not a party to the 1977 Protocol II Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, there are standards expressed in this Protocol which are

essentially the same as those expressed in the instruments of international human rights law (to which the Protocol explicitly refers in its preamble), namely: protection of the right to life, protection from torture and mutilation, protection against arbitrary punishments, protection against outrages upon personal dignity, protection against pillage, protection against threats of any of the afore-mentioned, respect for the rights of those in detention and against whom penal prosecutions have been initiated, protection of the wounded and of medical personnel, and protection of the civilian population in general, including protection of objects indispensable for their survival and cultural objects and places of worship. Indeed, it should be observed that many of these most fundamental protections may be said to be part of the customary law of human rights.

28. Irrespective of the exact "level" of the rebellion, i.e. whether or not the conflicts rose to the level of those considered under Article 3 common to the four Geneva Conventions of 1949 or whether they remained at the level of a large-scale and coordinated criminal disturbance (which the Special Rapporteur is persuaded was not the case), it must be stressed that the response of the Government must be relevant and proportionate, such that the standards of human rights may be respected for every individual in every case; the existence of such internal disturbances, no matter what their "level", does not permit a carte blanche response. Certainly, international law can never accept a return to the justice of "an eye for an eye": any violations on the part of the insurgents (which the Special Rapporteur acknowledges are most likely to have occurred) cannot be used as an excuse for violations by the Government, either during the uprisings or thereafter. In any event, and as in the cases of war discussed above, it must be observed that the events in question affected only certain parts of the country and only during a very limited time almost one year ago. Hence, the invocation of the excuse of the March 1991 uprisings cannot generally be accepted even for the limited period of its conflicts.

4. The relevance of economic sanctions

29. It has not escaped the attention of the Special Rapporteur that the central argument advanced by the Government of Iraq in reply to allegations of violations revolves around the existence of the economic sanctions levied against Iraq for its previous and continuing violations of general international law. In fact, in his conversation with the Special Rapporteur of 8 January 1992, Deputy Prime Minister Tariq Aziz argued that Iraq's respect for human rights would improve if the sanctions were to be lifted - suggesting that the existence of the sanctions causes Iraq to violate human rights. However, here again it must be noted that such an argument is fallacious since there is no relation in law or logic between the existence of economic sanctions and compliance with obligations of international human rights law. This is certainly so for violations of the right to life, torture, due process and, indeed, virtually all other human rights: simply put, shortages of spare parts for car engines cannot be said to cause government forces to carry out acts of torture.

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5. The relevance of other circumstances

30. Aside from the major arguments of "special circumstances" advanced by the Government and considered above, the Government has at various times and to a lesser degree attempted to invoke the relevance of certain other "circumstances" as bearing on the content of its obligations under international human rights law. These may be said to fall into three categories: the circumstance of a "developing country", the circumstance of a country in the process of "revolution", and the circumstance of a country with "its own particularities and indigenous values". As with the other arguments discussed above, these demand some response.

31. With regard to the "circumstance" of a "developing country", it is first to be observed that international human rights law does not provide for varying regimes dependent upon the level of a State's development. It has long been established that the norms of international human rights law are indivisible and complementary; that there is no hierarchy such that one "category" of human rights may be said to prevail over another. Respect for human rights is not an "either/or" proposition: it is both possible and necessary to respect all rights at the same time. Even the standards of respect for economic rights may be said to be universal in so far as they are generally standards of reasonableness which expressly take into account "available resources" (article 2, paragraph 1 of the Covenant on Economic, Social and Cultural Rights). Moreover, respect for fundamental human rights such as freedom from torture and the right to life in no way may be said to depend on the circumstances of a State's "development". In any event, Iraq cannot be said to be a poor or underdeveloped country. On the contrary, Iraq's natural wealth and gross national product through much of the last generation has propelled the country along the road of development.

32. The notion of the "circumstance" of a country in the process of "revolution" was raised by Deputy Prime Minister Tariq Aziz in conversation with the Special Rapporteur when Mr. Aziz explained why movement from the Provisional Constitution of 1970 had not been possible. According to the argument, the process of the revolution had been delayed for the last 22 years by other special circumstances of war, uprisings and now the embargo. As a consequence, the regime of "revolutionary legality" had had to be extended under the guardianship of the "vanguard of the people". However, such a notion of "circumstance" is simply not provided for under the terms of any instruments of international human rights law, and the nature and duration of this "revolution" would exclude it from being considered as a "public emergency" in the sense of article 4 of the Covenant on Civil and Political Rights. Moreover, the Special Rapporteur notes that Iraq did not consider this "circumstance" as interfering with its ability to accede to the two Covenants of 1966, as it did in 1971. Consequently, the "revolution" referred to by Mr. Aziz must be deemed irrelevant to the application of international human rights law in and by Iraq.

33. The concept of a country with "its own particularities and indigenous values" undoubtedly applies for each and every State in the world. To say that it somehow has a bearing on the standards applicable in each State is to ignore the universality of international human rights law. Though the question of "universal values" may be the subject of considerable debate in

academic circles, as a matter of positive international law the standards do not vary by country and are not amenable to unilateral interpretation. Again, the Special Rapporteur must repeat that the standards in question have been freely accepted by Iraq after due consideration, or are universal standards arising under customary international law. National "particularities and indigenous values" cannot be said to vary these standards or serve as excuses for violations: otherwise the standards would soon be meaningless.

6. The relevance of derogation clauses

34. Although the Government of Iraq has at different times alleged that examination of its human rights record has been a politicized exercise, the Special Rapporteur has steadfastly analysed the situation of human rights in Iraq according only to the norms of the applicable international law. In the case of so-called "special circumstances", such an analysis leads directly to a consideration of the purposes and procedures of the relevant derogation clauses.

35. As a matter of law, there is really only one relevant article: article 4 of the Covenant on Civil and Political Rights. It reads as follows:

> "1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.
>
> "2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.
>
> "3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation."

Although the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women do not refer to derogations, it is clear both from the absence of such a reference and from the prohibition in the last part of article 4, paragraph 1, quoted above that no derogation from these obligations is permissible. In a similar vein, derogation cannot be permissible under the Convention on the Prevention and Punishment of the Crime of Genocide, for obvious reasons. For its part, the Covenant on Economic, Social and Cultural Rights does not speak to the issue of derogations (suggesting none are permissible), but refers instead in its article 4 to "such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society".

36. Article 4 of the Covenant on Civil and Political Rights may be said to have both procedural and substantive aspects. As far as procedure is concerned, paragraph 1 makes clear that any public emergency invoked as justification for derogations must be "officially proclaimed" within the State, while paragraph 3 requires the State Party to "immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated"; similar notification is required upon termination of such derogation. These procedures are necessary both for the purposes of other States (so that, inter alia, they may be aware of the protections that may or may not be available to their nationals), and for the determination of the substance of the derogations; only by complying with the procedure of article 4 can it be possible to know whether or not the derogations sought are inconsistent with other obligations under international law and do not otherwise conflict with the limitations established in the article.

37. Assuming that the procedural aspect of article 4 is respected, the substance of any derogations invoked will comprise only such measures as are "strictly required by the exigencies of the situation", "are not inconsistent with ... other obligations under international law" and do not impinge upon the non-derogable rights specified in paragraphs 1 and 2.

38. From the clear wording of article 4 of the Covenant on Civil and Political Rights, as read in the light of the whole Covenant and in the spirit of international human rights law in general, it is apparent that derogations are to be strictly limited and can never be implied. For if the procedure of notification and justification were not to be respected, then it would not be possible to determine the substance or legitimacy of derogations, and potentially arbitrary and abusive measures could undermine respect for human rights in general. Moreover, it is equally apparent that the notion of derogation is linked to exceptional circumstances, which in turn implies the temporary nature of any derogations; an order of derogations cannot be permitted to become the normal state of affairs. On this last matter, the Human Rights Committee has observed the following in its General Comment 5 (13):

> "The Committee holds the view that measures taken under article 4 are of an exceptional and temporary nature and may only last as long as the life of the nation concerned is threatened and that, in times of emergency, the protection of human rights becomes all the more important, particularly those rights from which no derogations can be made. The Committee also considers that it is equally important for States parties, in times of public emergency, to inform other States parties of the nature and extent of the derogations they have made and of the reasons therefore" (CCPR/C/21/Rev.1).

39. As far as the Special Rapporteur has been able to determine, the Government of Iraq has neither officially declared a state of emergency nor otherwise proceeded under article 4 of the Covenant on Civil and Political Rights to effect permissible derogations from its human rights obligations. While this fact alone may perhaps be telling, the Special Rapporteur refers to his remarks in paragraph 60 of his interim report in rejecting the above arguments of "special circumstances" and concluding again that all normal standards apply.

II. ALLEGED HUMAN RIGHTS VIOLATIONS

A. Issues affecting the population as a whole

1. Summary or arbitrary execution

40. Regular and consistent reports of executions have reached the Special Rapporteur throughout the period of his mandate. Allegations have ranged from inadequate judicial review to orchestrated mass executions and burials. With respect to this last issue, the use of weapons of mass destruction and the issue of mass graves will be discussed. However, the problem of "normal" summary or arbitrary executions will first be addressed here.

41. Executions continue to be routinely carried out. This conclusion is fully justified in the light of the Special Rapporteur's visit in January 1992 to Abu Graib prison where, in one wing of the "heavy" section 96, he found prisoners awaiting execution. This figure (from just one prison) is to be compared with the figure given by the Government in its reply of 23 January 1992, in which it is stated that there were only 24 death sentences proclaimed for the whole of 1978.

42. While it is apparent that the death penalty is regularly administered, this fact is all the more disconcerting in view of the failings of the due process of law described below. Moreover, information and testimony received by the Special Rapporteur make it clear that executions have routinely been carried out without judicial review. In fact, according to the documents reproduced in annex II and said to have been found in the Security Department offices of Arbil, Sulaimaniya and various other offices now under Kurdish control, the security service reporting to the President and other officers of the State (or simply to the Baath Party) has carried out executions on executive or party authority without judicial review. Most significantly, arbitrary executions were carried out on thousands of families of those thought to have been "saboteurs".

43. Information and testimony received by the Special Rapporteur affirm that there have been practices of mass execution. A report of a recent medical fact-finding mission, sent by Middle East Watch and Physicians for Human Rights, provides further evidence of the practices of the Iraqi security forces. Of particular interest is the following statement attributed to a grave digger from Arbil:

> "It was in the autumn of 1986. I was called to the morgue soon after the attempted assassination of the governor of Arbil, Ibrahim Z'angang. In fact, it was the fourth attempt. An Iraqi officer met me at the morgue entrance and took me to a security police vehicle. Inside were the corpses of about 19 young men. Their bodies were riddled with bullets, their hands were tied behind their backs, and they were blindfolded. The officer said I was to bury these 'dogs'. Later, the morgue workers told me that these young men were students who had been randomly rounded up and shot by a firing squad only a few hours earlier. It was nothing more than retaliation for the botched execution attempt, a way of warning the Kurds... So I went with the officer and the bodies to the cemetery. Traditionally, we wash the dead before burial and then

> wrap them in a white cloth. But the officer wouldn't allow it. He said it had to be done quickly. So I buried them with their clothes on. However, I did manage to place stones around the bodies and to turn their heads toward Mecca."

Exhumation of one of the graves indicated by the grave digger provided corrobative evidence of the story's accuracy.

44. In Sulaimaniya, a grave digger made the following statement to the same fact-finding mission:

> "I must have buried 600 or maybe up to 1,000 people - all killed by the secret police between 1985 and 1989. Sometimes they were peshmerga, sometimes women, sometimes children. Sometimes they'd been tortured. There were other grave diggers but I'm sure I buried most of them."

Exhumation of unmarked graves indicated by the grave digger again provided corroborative evidence of the truth of this story.

45. Testimony received by the Special Rapporteur also confirmed that arbitrary or summary executions were common during and after the March 1991 uprisings. House-to-house searches by Government forces were said to have regularly resulted in executions, including of women and children.

46. One particularly disturbing piece of evidence viewed by the Special Rapporteur was a video-taped official and public execution of five men. Blindfolded and tied to poles, the men were placed before a large crowd, including various military officers and public officials. After some statements had been read out, the men were repeatedly shot. With the bodies crumpled to the bottom of the poles, an apparent security officer walked past the corpses placing a bullet from his pistol to each one's head; maintaining his stride, he delivered the five shots in a few seconds. Young children observed these executions from the front rows of the public assembly.

47. With regard to mass killings as a result of the use of chemical weapons and other weapons of mass destruction, the Special Rapporteur refers to paragraphs 22, 23, 74 and 75 of his interim report (A/46/647). After further study including consideration of eye-witness testimony received by the Special Rapporteur, there can be no doubt that Iraq has used excessive force, including chemical weapons, on several occasions during the past few years.

48. With regard to the use of chemical weapons in particular, Mr. Tariq Aziz, then Foreign Minister, stated during a press conference in Bonn on 1 July 1988 that both sides in the Iran-Iraq war had used chemical weapons. It has been established, however, that Iraq also used chemical weapons against civilians. In a report of 19 August 1988 to the Security Council (S/20134, annex), the Secretary-General of the United Nations noted with deep regret the conclusion of an expert group, which had been sent to investigate the matter, that chemical weapons had been used against Iranian civilians in an area adjacent to an urban centre lacking any protection against that kind of attack.

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49. But there is also abundant evidence that Iraq used chemical weapons against its own civilians. For instance, a report of a medical mission to Turkish Kurdistan by Physicians for Human Rights dated February 1989 concluded that Iraqi aircraft attacked Kurdish villages in northern Iraq with bombs containing lethal poison on 12 August 1988. This conclusion was based on responses to a systematically administered questionnaire, videotaped eyewitness accounts, and the physical examination of people residing in refugee camps in south-eastern Turkey at the time of the mission.

50. The Special Rapporteur has himself spoken with several people in the Kurdish part of Iraq who claimed that members of their families were either killed or severely injured as a consequence of chemical attacks by Iraqi aircraft, or that they had themselves been victims of such attacks. A list of 103 people who were killed during the chemical bombardment of the village of Sheekwassan in the governorate of Arbil on 16 April 1987 was submitted to the Special Rapporteur in this connection. In addition, he received another list with the names of 45 inhabitants of the same village. These people, it was claimed, had been transferred to a hospital after having been injured during the chemical attack. They were subsequently killed by the secret police and buried in mass graves near Arbil.

2. Torture and other cruel, inhuman or degrading treatment

51. Throughout the decade of the 1980s, Amnesty International denounced, in several reports, the widespread, systematic torture of detainees by Iraqi Government security forces (both police and military).

52. The use of torture in order to compel political prisoners, and also detainees held for any security-related offence, to sign "confessions", to give information regarding themselves as well as other persons, and to force them to renounce their political affiliations, was said to be routine practice. Victims were reportedly most often subjected to torture immediately after their arrest and during interrogation under pre-trial detention, when they were held incommunicado. In many cases, they were suspected of being members of prohibited political parties such as the Kurdistan Popular Democratic Party (KPDP), the Kurdistan Democratic Party (KDP), the Patriotic Union of Kurdistan (PUK), the Kurdistan Socialist Party-Iraq (KSP-I), the Iraqi Communist Party (ICP) and *al-Da'wa al-Islamiya*. It has further been alleged that the relatives of such suspects, including children, were held in lieu of such suspects sought by the authorities and were also tortured in the process.

53. Interrogation practices have been described as brutal and have, in some cases, resulted in permanent physical or mental damage to the victims. In its report "Torture in Iraq 1982-1984" of 15 April 1985, Amnesty International provides a list of 30 different methods of torture allegedly used by members of the Iraqi security forces. They include both physical and psychological torture, such as beatings, burnings, extraction of finger-nails, sexual assault including rape, electric shocks, acid baths, deprivation of food, water, sleep or rest, as well as subjection to mock executions. Several of the victims were said to have died as a result of torture, which would explain why government documents brought to the attention of the Special Rapporteur frequently speak of "criminals" having "died during interrogation" (see, for

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example, document No. 5 in annex II). Moreover, it was reported that in several cases of alleged extrajudicial execution the victims were subjected to torture before being killed.

54. In particular, Amnesty International reports that brutal treatment of children has become routine practice in Iraqi prisons. Young people have reportedly often been tortured to force them to reveal information about their relatives. Allegedly, even infants have been ill-treated to compel members of their families to "confess" to alleged political offences. According to these reports, some of the 300 children and youths arrested in Sulaimaniya in September and October 1985 had been tortured, and three of them died in custody as a result. Their bodies were said to have been found in the streets on the outskirts of the town, bearing marks of torture. The bodies of 29 others of these children and youths, reportedly executed in January 1987, were returned to their families. They also showed marks of torture.

55. Quoting its Constitution and several other laws prohibiting torture, the Government of Iraq has repeatedly denied that torture frequently occurs in the country. Allegations submitted to it by Amnesty International have been qualified as "bizarre", "false" and "without foundation" since torture is prohibited by the nation's Constitution and laws. These allegations were denied even when they had been presented with consistent evidence in the form of detailed medical examination results and other material findings. According to the Government's response to Amnesty International, occasional cases of torture had been investigated and those responsible had been dealt with. The Special Rapporteur has received similar assurances. However, as torturers remain anonymous, and only very few (former) prisoners will take the risk of severe retaliation, it must be assumed that the torturers can continue their practices in the knowledge that the chances are extremely small that they will ever be punished for their crimes.

56. The Special Rapporteur has received considerable testimony from victims of and eye-witnesses to torture; testimony from victims was frequently corroborated by scars remaining on their bodies. The testimony received recounts a wide variety of methods of torture, although certain practices appear to be routine given the frequency of references and consistency of accounts given by the witnesses. The testimony of victims was also corroborated by that of former security officers, who were able to provide specific information concerning the security apparatus in general and its use of torture in particular.

57. The findings of the Special Rapporteur confirm that torture, including in its most cruel forms, has been used on a large scale as a method of extracting confessions and terrorizing the population throughout the 1980s and to the present day. The summaries of a small number of testimonies are provided below:

(a) In early 1982, the witness' son was taken from the University in Baasra, and for 6 months the witness sought his whereabouts. Finally deciding to ask the officer in charge of the security centre in Baasra about the fate of his son, the witness was taken blindfolded to the General Security Centre in Baghdad in November 1982. There he was interrogated, being told that his son was a "criminal". In an attempt to get him to "confess" his son's criminal activity, the witness was tortured during seven months, having his

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legs and back burnt and being hit on the back of the head (from which he still bears a scar). Finally, he was brought before a court and released in July 1983. His son was tortured and released in November 1983.

(b) In early March 1991, before the uprisings began, the witness was arrested by the intelligence services in Baasra. He was blindfolded and taken to the city's security centre, where he remained for one month. During his detention, he was beaten and subjected to electric shocks. In April 1991, he was transferred to Radwaniya prison in Baghdad where his interrogation began; he was subjected to more electric shocks, suffered burns and was hanged by his hands tied behind his back. He was released some two months later because of lack of evidence. The witness suffers from a weak left leg as a consequence of his tortures.

(c) On 28 December 1985, the security forces and intelligence services stormed the witness' home at 3.00 a.m. He was taken to the General Security Centre in Baghdad and placed in its "Third Section". He subsequently remained in prison for three and a half years, being transferred to many different prisons in the country, including that of Tikrit. During his detention, he was badly tortured, being subjected to beatings, the dripping of acid on his skin, the use of electric shocks, and beatings with cables. He had been charged with slandering Saddam Hussein and with being a member of the al-Da'wa Party, but he was released in 1988 when the Revolution Court could find no evidence against him.

(d) The witness was arrested in 1990 and imprisoned for having deserted from the army. While in prison, he was severely beaten and kicked, was subjected to electric shocks and was burnt with a hot iron.

(e) On 17 July 1988, the witness deserted from the army. He was caught and taken to the Security Centre in Baasra where, from 20 July 1988, he was subjected to various forms of torture, including hangings, electric shocks, sexual assaults, the extraction of his right eye and the removal of his fingernails by plyers; he suffered damage to his left eye as the result of a kick.

(f) The witness was arrested at the University of Mosul in 1985. During his detention, his arm was broken in the course of beatings. Upon an escape attempt, he was shot in the left hand. The witness also suffers stiffness in his fingers which he attributes to electric shocks administered during his detention.

(g) In September 1984, the witness was arrested by the security forces and taken to Najaf Security Centre where, in the course of interrogation, he was hung from a ceiling fan, subjected to electric shocks and beatings to all parts of his body including his genitals, and had hot water poured over him. He also suffered psychological torture as he was placed in solitary confinement, hearing screams and cries. After 11 months, he promised to give names and collaborate with the security forces, whereupon he was released. He fled the city.

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(h) In 1985, the witness was arrested with her family and taken to the Karbala Security Centre. She was separated from her family and placed in solitary confinement. During her interrogation, she had her clothes torn off and was sexually assaulted.

(i) The witness had been arrested several times by the Security Forces, beginning in 1979. During his fourth arrest, in 1988, he was severely tortured by the use of electric shocks and sexual assaults. He was witness to other persons having their eyes pulled out and being dragged over broken glass.

(j) On 19 April 1990, the witness was arrested for the second time, having previously been taken to the Security Centre in al-Shanafiya. During his second detention, he was subjected to electric shock and was threatened with the rape of his wife before his eyes in order to extract a confession. Having fainted from torture, he was taken to Saddam Hospital, but the witness refused a suggested injection because his friend had previously been poisoned. On 22 November 1990, the witness was released, but he suffers from a paralysed left hand as a result of his torture.

(k) On 29 May 1984, the witness was arrested and taken blindfolded to the Baasra Security Centre where he remained for 13 months. During his detention, he had his teeth pulled out and lost his hair as a result of scaldings with boiling water.

(l) The witness was arrested for having refused to join the army. During his imprisonment, he suffered various forms of torture (beatings, cablings, electric shocks, being hung from the ceiling) along with 30 other persons who had refused to join the army. The witness reports that some of those 30 persons had teeth and nails pulled out, while others had their tongues cut.

(m) In April 1986, the witness was taken from his house for having refused to join the army. Being told that he must either join the army or be executed, he was tortured by electric shocks and had his nails pulled out. During his detention, the witness also saw a girl being raped.

(n) During the March 1991 uprisings, the witness was arrested with his brother. He and his brother were both subjected to severe beatings, electric shocks, and the removal of their fingernails. As a result, his brother (who was badly tortured) is now emotionally disturbed.

(o) The witness was arrested in 1989 and suffered injuries during interrogation. As a result, he was taken to a military hospital where he was subjected to further torture, having some of his flesh scraped off. He was subsequently transferred to a prison where toxic materials were put on his wounds.

(p) During a military action against "communists" in the governorate of Sulaimaniya in September 1988, the witness (then an army medic) covered a body in the street with a cloth, whereupon he was arrested for sympathizing with the saboteurs. He was next charged with being a communist. Taken to the "Fifth Section" of the General Security Centre in Baghdad, he was handcuffed and blindfolded and was then forced to sign various documents. In an effort to extract his confession, he was told that his two sisters would be brought before him and raped. When the sisters were brought before him, he confessed and was thereupon imprisoned.

58. The use of torture by Iraqi security forces violates both national and international law. Torture is prohibited by article 22(a) of the Iraqi Constitution and by article 127 of the Iraqi Code of Criminal Procedure No. 23 of 1971. However, it is reported that no safeguarding mechanisms and procedures have been established to ensure respect for the prohibition of torture by security and police forces. Indeed, it would appear that torture is a systematic practice conforming to government directives.

59. The use of torture is a serious violation of several international human rights standards, such as those embodied in: article 5 of the Universal Declaration of Human Rights; article 7 of the Covenant on Civil and Political Rights; and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. With respect to this last instrument in particular, the Iraqi Government stated officially on 3 September 1979 that it intended to comply with the Declaration and "to continue the implementation, through its national legislation and other effective measures, of the provisions of the said Declaration."

3. Enforced or involuntary disappearances

60. The Commission on Human Rights has been confronted with the phenomenon of disappearance for well over a decade and in that time the phenomenon has come to be considered as one of the most heinous of crimes. Disappearance presents a complex of violations against the individual, the family, and the community in general. The wives and children of disappeared husbands and fathers are particularly hard hit. Often, families are left without support, and in a state of limbo, without being able to take over property rights or have the peace of mind of knowing the fate of their loved ones, and with wives being unable to remarry.

61. From the information received, it is beyond doubt that the problem of disappearances is enormous in Iraq. In receiving testimony from witnesses, the Special Rapporteur was several times reminded that there is hardly a family in Iraq that has not been touched by the phenomenon. Indeed, both the Minister of Interior and the Deputy Prime Minister agreed with the Special Rapporteur that the problem is widespread and complex, while Professor al-Duri of the Consultative Committee on Human Rights of the Ministry for Foreign Affairs offered the information that he had two nephews who had gone missing. While these admissions relate primarily to war losses, it would seem most appropriate and long overdue for the Government to establish an independent body of enquiry and record keeping.

62. In connection with his mandate, the Special Rapporteur takes note of the valuable work of the Working Group on Enforced or Involuntary Disappearances. Specifically, it is interesting to note that of the 3,874 detailed and individual cases transmitted to the Government, the Government has only ever seen fit to respond to a mere 206, clarifying just 70 of these. Such a response rate does not bode well for the Special Rapporteur, who is at present

in possession of over 17,000 names of persons who have allegedly disappeared, of which an estimated 12,000 cases contain sufficient detail to be taken up by the Working Group. In fact, since the submission of the Special Rapporteur's interim report, a steady flow of cases has been received, often accompanied by identity documents and photographs. This has presented logistical problems in so far as most are received in Arabic and Kurdish; the great majority of these cases are still being translated and analysed, and so the Government of Iraq has yet to receive many of these lists. In any event, and judging from the volume of cases already received by the Special Rapporteur, it is within the realm of possibility if not probability that Kurdish estimates of up to 182,000 disappeared are realistic.

63. Many examples of cases of disappearance could be cited. But one case is perhaps revealing; that of a Mr. al-Subeiti who was sentenced to death *in absentia* for being a member of the al-Da'wa al-Islamiya Party. While working some time later in Jordan in 1981, he was arrested and imprisoned by the local authorities. In 1981, Mr. Barzan al-Tikriti came to obtain him on an extradition order that stipulated that he would not be executed. His children received two personal letters from him thereafter: one in 1982 and the other in 1983. There has been no news from him or of him since then. The terror an event like this transmits, even across borders, is considerable.

64. Annex III contains only a sample of cases of disappearance received by the Special Rapporteur. This list of 238 names and particulars has been compiled from seven collective case files received by the Special Rapporteur during his recent visit to Iraqi Kurdistan. In each case detailed information is provided. Viewed together with the thousands of cases submitted to the Working Group on Disappearances in the early 1980s and the large numbers being submitted as a result of the Anfal Operations and in relation to the March 1991 uprisings, the Special Rapporteur can only conclude that there has been and continues to be a systematic policy of enforced disappearance.

4. Arbitrary arrest and detention

65. Testimony received by the Special Rapporteur continues to affirm that arbitrary arrest and detention are routinely practised in Iraq and remain a major contributing factor to the general climate of fear. In the context of other violations, such as torture, enforced disappearance and summary or arbitrary execution, victims are almost always arbitrarily arrested and detained. In fact, arbitrary arrest and detention is often the precursor to such greater violations. With respect to this subject, the Special Rapporteur refers to his remarks in his interim report (see A/46/647, paras. 14, 15 and 63-65) and to the related matters discussed above.

66. With regard to places of detention, the Special Rapporteur notes that information and testimonies received reveal the use of all sorts of centres of detention, with over 100 places having been identified by witnesses. This information stands in stark contrast to the Government's contention that there are at present only four functioning prisons in Iraq.

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5. Due process and the rule of law

67. The notions of "due process of law" and "rule of law" are integrally linked: the rule of law is poorly served and undermined if the requisites of due process are not respected, and the notion of due process becomes meaningless if the rule of law is not secure. As matters of international human rights law, these two notions are defined particularly in terms of articles 10 and 11 of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant on Civil and Political Rights. However, the rule of law requires more than respect of procedural rights; it requires respect for most if not all rights and a concerted effort to eradicate the scourge of arbitrariness.

68. In Iraq, neither is the due process of law generally respected nor is the rule of law upheld. On the contrary, information and testimony received reveals a consistent if not routine failure to respect due process. At the same time, and perhaps partly because of it, the rule of law has been completely undermined.

69. While numerous testimonies alleged the absence of counsel during trial, the absence of time and support to prepare a defence, and all other such attendant guarantees (assuming any trial in the first place), perhaps examination of an individual case will help demonstrate where the problems lie. In this connection, the case of Mr. Ian Richter, raised in the interim report (paras. 41, 42 and 84, 85), is a useful example, regardless of the fact that he was released some months ago.

70. According to Mr. Richter's own testimony, and contrary to the obligations of Iraq under article 9 (2) of the Covenant, Mr. Richter was never informed of the charges against him. Under the terms of article 14 of the Covenant, Mr. Richter was not given adequate time or facilities to prepare his defence, he was brought before a Revolution Court without benefit of legal representation, he was not permitted to examine any witnesses against him, he was forced to sign documents in Arabic which he did not understand, and he was not allowed the right of appeal. In Mr. Richter's case, however, the arbitrariness may be said to have come full circle as his release has not been explained in law and it is not certain whether or not he is entitled to any compensation for the five and a half years he spent in prison. Virtually all testimony received by the Special Rapporteur cites the same violations.

71. Turning to the rule of law, the Provisional Constitution of July 1970, which is still essentially in force, speaks neither of "government" nor of "executive power" but refers only to the "Council of Ministers" - an organ "comprised of ministers and presided over by the President of the Republic" (article 61). However, the real power in the country resides (apart from in the Office of the President) in the Revolution Command Council, which is the "State's supreme organ" (article 37). The membership of the Revolution Command Council is constituted by nine persons whose names, including that of Saddam Hussain, are listed in Revolution Command Council Decree No. 836 of 12 July 1982; the said Decree, which is an amendment to article 37 of the Constitution, also appoints the President of the Revolution Command Council who, *ipso facto*, is the President of the Republic. Any modification of the composition of the Revolution Command Council would thus require a modification of the Constitution.

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72. The Revolution Command Council holds extensive legislative and executive powers at one and the same time. Significantly, it may establish laws and make decisions that have the force of law (article 42). It supervises the laws voted upon by the National Assembly, which it may dissolve, and pronounces the decisions necessary to bring ordinary laws into force. The Revolution Command Council has exclusive competence to adopt laws and make decisions relating to the Ministry of Defence and to the State Security, particularly those relating to their powers, organization and budgets (article 43 of the Constitution and article 105 of Law No. 55 of 1980, Law on the National Assembly). Moreover, the Revolution Command Council is the only authority that may, by a two-thirds majority decision, modify the Constitution (article 66). Further, without the approval of the Revolution Command Council (which meets in camera), no steps can be taken against the President, the Vice-President or any other members of the Revolution Command Council. In sum, the Revolution Command Council and its members are subject to no legislative or judicial constraints: they are accountable to no one.

73. Without being elected, either directly or indirectly, by the people, the President of the Republic holds, at the same time, the offices of: Head of State, President of the Revolution Command Council, President of the Council of Ministers, Commander-in-Chief of the Armed Forces, and Secretary General of the Baath Party. Perhaps most importantly, he is also de facto chief of State Security in as much as it reports directly to him and to no other minister. The length of the President's mandate is not specified in the Constitution, although it is presumably for life since all other members of the Government are required to believe in the "Qadissiyah of Saddam" (see, for example, article 14 of Law No. 55 of 1980). The Vice-President and Ministers are appointed by the President and are responsible to him. He can dismiss them at will. He is the head of the executive, has wide-ranging diplomatic powers, presides over the meetings of the Revolution Command Council, promulgates the laws passed by the National Assembly, commands the armed forces, decides on national defence policies and conducts military operations in time of war. To carry out his duties, he has full and sole constitutional authority to decree whatever measures he deems appropriate, for which he alone is responsible.

74. Until very recently, there was a "Revolution Court" which decided all cases of crimes against the State's somestic and foreign security as well as a wide variety of other offences (Revolution Command Council Decree No. 1016 of 1978); there was no possibility to appeal decisions of the Revolution Court. While this Court was eliminated by Revolution Command Council Decree No. 140 of 1991, it is interesting to note that in 1985 the Revolution Command Council had given the President of the Republic the right to annul any decision taken by the Revolution Court and to refer cases back to the Court for reconsideration.

75. In view of the vast constitutional and de facto powers of the President, it is clear that there are at least two systems of law operating within Iraq: a "normal" system of ordinary laws that addresses the typical affairs of daily life, such as highway traffic ordinances, and a parallel system of Revolution Command Council and Presidential Decrees that addresses all matters of internal and external security together with whatever other matters the Revolution Command Council and President care to address. In fact, the power lies essentially in this second system of what may be called "extra-judicial

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legality" (or what Mr. Tariq Aziz has characterized as "Revolutionary legality"). However, beyond these two systems provided for within the Constitution, there may be said to be yet another order of rule - an order that might be called "extra-legal" in as much as it is not provided for in any texts of Iraqi law. This is the order of rule that proceeds from the personal whims and wishes of a few individuals who hold positions in the inner circle of the President. Irrespective of the extent of their legal authority, these persons have a de facto power to instruct the agents and organs of the State. An example of such power may be seen in the words of Mr. Ali Hassan al-Majid (then Secretary General of the Office for the Organization of the North and now Minister of Defence) when he asserted that he "went beyond the instructions of the leadership" in carrying out his tasks in the north - for which he was subsequently decorated by the President (the quoted words were expressed in a taped conversation, in the possession of the Special Rapporteur, involving a person the Special Rapporteur is confident is Mr. al-Majid). In fact, therefore, one is confronted in Iraq with a totalitarian system which does not take into account the rights of the individual. In such a system, human rights violations are inevitable.

6. The freedoms of thought, expression and association

76. The freedoms of thought, expression and association are guaranteed, respectively, by articles 18, 19 and 20 of the Universal Declaration of Human Rights and articles 18, 19 and 22 of the Covenant on Civil and Political Rights. Their proximity in these instruments is no accident in as much as these freedoms are so closely related that restrictions on one of these freedoms almost always has an impact on the others. In Iraq, the relationship is clear in so far as it would appear that the Government will not permit any thought, expression or association that significantly conflicts with the ideology of Arab Baath Socialism as interpreted by the party leadership, led by General Secretary Saddam Hussain.

77. While several Ministers maintained before the Special Rapporteur that Iraq is an open and pluralistic society that tolerates all varieties of beliefs in private and in public, the Special Rapporteur cannot ignore the longstanding government policies aimed against members of the al-Da'wa al-Islamiya Party (which follows Shi'a Islamic teachings), the Communist Party and members of all manner of other political parties and religious or philosophical groupings that do not accord with Baath Party ideology.

78. Perhaps the simplest evidence of the holding of a belief is one's private and public statements and affiliations. Here, thought is clearly linked with expression and association. In Iraq, it has been alleged that personal convictions have been captured by a web of government infiltrators and informants present throughout Iraqi society. Other evidence of convictions is given by confessions which, it is alleged, are frequently extracted under torture. But, the clearest evidence of violation of the freedom of expression continues to be found in Iraqi law which, for example, prescribes severe penalties including death for, *inter alia*, anyone slandering or insulting the President or anyone representing him, the Revolution Command Council, the Baath Party, the National Assembly or the Government (see the Special Rapporteur's interim report, A/46/647, paras. 33 and 80, and page 34 for the Government's response, all referring to Revolution Command Council Decree

No. 840 of 4 November 1986). Irrespective of the number of prosecutions under this law, its very existence clearly inhibits freedom of expression in violation of Iraq's obligations.

79. Turning to the issue of freedom of association, violations come in two principal forms: restrictions on associations of a political nature, and restrictions on the right to form and join independent trade unions. As far as associations of a political nature are concerned, several are specifically outlawed, such as the al-Da'wa al-Islamiya Party and the Communist Party. According to the relevant laws, membership in or association with these groups could carry the death penalty. While the Government denies that the law related to al-Da'wa al-Islamiya Party affiliation has ever "been put into practical effect" (A/46/647, page 35), the very existence of such laws has a far-reaching effect and is a violation of obligations under international human rights law. Moreover, information and testimony received by the Special Rapporteur indicates that this law has been regularly used not only against actual Party affiliates but also against anyone that might be considered an "enemy of the State" as determined by any number of security officers. Indeed, information from one source gave the particulars (including personal photographs) of over 50 individuals who had been allegedly executed for being members of the Party.

80. With respect to the right to form and join trade unions, and notwithstanding the fact that Iraq is a Party to International Labour Organisation Convention No. 98 of 1948 concerning Freedom of Association and the Right to Organise (to which article 22, paragraph 3, of the Covenant on Civil and Political Rights specifically refers), Iraq's Trade Union Organisation Law of 2 June 1987 establishes a trade union structure that places all trade unions within the Government's control. Thus, no independent trade union associations may be formed.

7. Access to food and health care

81. Access to food and health care continues to be a problem for a large part of the population. But, while it is clear that the economic sanctions imposed by the United Nations have had a significant impact on the economy as a whole, the Special Rapporteur repeats the note in his interim report (A/46/647, para. 96) that the sanctions specifically exempt "supplies intended strictly for medical purposes, and, in humanitarian circumstances, foodstuffs". It is the Government of Iraq's obligation, therefore, to adjust its food rations and social welfare to address the specific needs of all its people, and to help international relief agencies serving the most vulnerable.

82. Iraq is not a poor country, and so the Security Council has devised the formula of "oil for food" (and medicine) to allow Iraq to utilize its natural wealth to satisfy the minimum needs of the people. While the formula may be somewhat cumbersome, and perhaps not economically advantageous to the Government of Iraq, the issue at hand does not concern economic advantage and the Special Rapporteur remains convinced that an appropriate formula could have been worked out had there been sufficient political will on the part of the Government. Having recently chosen to break off negotiations to find an appropriate formula, and thereby having dismissed an opportunity to enlarge the available resources of food and medicine at a time when the people are in

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dire need (according to the Government's own argument), the leadership of Iraq has evidently made a political determination that its notions of "sovereignty" are more important than its obligations to respect human rights.

83. Considering the fact that the Government has itself imposed an economic embargo (specifically including medicaments, foodstuffs, gasoline and heating oil) against the portions of its population essentially living in the Autonomous Region of Kurdistan, and so far as it fails to distribute adequately such goods in the southern marshes, the Government cannot reasonably complain about the embargo instituted under the supervision of the United Nations Security Council. According to information received by the Special Rapporteur and confirmed by his own observations on 6 and 7 January 1992, the Government of Iraq has reduced the flow of rations to those in the Autonomous Region of Kurdistan to only 10 per cent of those given to other citizens. Similar controls on distribution are said to be affecting the southern marshes where great numbers of people are reportedly in need of humanitarian relief. In this connection, it has been reported that the use of health clinics, churches and mosques as centres for food distribution has been prohibited, while the issuance of visas for humanitarian aid personnel has been delayed or they have not been extended. Consequently, while the Government's rationing system and social welfare (together with the efforts of international relief agencies, including specialized United Nations bodies) appears to be functioning relatively satisfactorily through most of the country, its internal embargos and reported interference with the work of certain relief agencies in selected areas is evidence of a policy of discrimination in violation of articles 2, 11 and 12 of the Covenant on Economic, Social and Cultural Rights. The violations against those living in the Autonomous Region of Kurdistan are all the more objectionable because they appear to be directly linked to the Government's political goals of exacting concessions in any future autonomy negotiations.

8. The situation of women and children

84. Women and children are protected in general by the two Covenants of 1966 and in particular by articles 2 and 24 of the Covenant on Civil and Political Rights. In addition to the provisions of the Convenants, Iraq is obliged to respect the provisions of the Convention on the Elimination of All Forms of Discrimination against Women. As is often the case, however, women and children suffer both violations against themselves as individuals and hardships resulting from the violations committed against their husbands and fathers. Such violations as summary or arbitrary executions and disappearances have had a harsh impact on the lives of Iraqi women and children, if not as the victims, then as the survivors of victims. As the families of alleged "saboteurs", they have suffered the severest penalties; several of the cases of execution and disappearance that have been brought to the attention of the Special Rapporteur involve women and children, including infants.

85. One of the most serious allegations affecting women is that of systematic rape. According to information and testimony received by the Special Rapporteur, security personnel would sometimes rape a young woman in order to later use her as an informant under the threat that her non-compliance would result in the revelation of her rape, thus subjecting her to public disgrace

and ostracism. It has been alleged that some of these rapes were recorded on video-cassettes to be given to the victim's family in the event of non-compliance. Other women were reportedly raped simply as an act of insult or vengence directed against their families. Testimony received from former Iraqi security officers corroborates these allegations.

86. Another unconfirmed allegation of discrimination against women is the allegation that women between the ages of 15 and 45 are still required to obtain an exit visa to leave the country, in contrast to men who are not. It has been explained that the purpose of this particular discrimination is to restrict women and their children from leaving the country to reunite with their husbands and relatives abroad or to otherwise escape the order of repression. Such a restriction would constitute violations of articles 2 and article 12, paragraph 2, of the Covenant on Civil and Political Rights and article 2 of the Convention on the Elimination of All Forms of Discrimination against Women.

9. Property rights

87. Information received by the Special Rapporteur points to numerous violations of property rights under the terms of article 17 of the Universal Declaration of Human Rights (refers to the right of everyone "to own property alone as well as in association with others" and the right not to be "arbitarily deprived" of property). In addition, property rights must be respected in so far as they relate to articles 17, 18 and 27 of the Covenant on Civil and Political Rights and article 15, paragraph 1 (a), of the Covenant on Economic, Social and Cultural Rights.

88. Allegations received by the Special Rapporteur focus on the conduct of the Government in four specific areas: action against alleged criminals; expulsion of those said to be of "Persian ancestry"; discrimination against the Turkoman population; and matters relating to religious and cultural property.

89. With respect to Iraqi action against alleged criminals, it appears to be a routine practice to confiscate both the movable and immovable property of persons accused of criminal activity. Whether or not such accusations have been proved in a court of law, and whether or not there have been convictions and sentences in this regard, seems to be irrelevant to the process of confiscation. As evidence of this apparently widespread practice, the Special Rapporteur heard considerable testimony and is in possession of numerous allegedly official government documents which attest to the practice. In this connection, document 6 in annex II to the present report specifically states that "criminals' movable and immovable property was confiscated because of their association with pro-Iranian subversive groups", while documents 3 and 6 specifically refer to the demolition of the houses of the families of criminals. On this last point, it is evident that the property rights of the said families have clearly been violated in an arbitrary fashion. The heavy impact that such confiscations and demolitions would have on the family members is evident.

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90. The practice of confiscation attains an entirely different dimension in the context of the long-established practice of expulsion of those said to be of "Persian ancestry". Information and testimony received by the Special Rapporteur alleges that the process of expulsion was normally accompanied by the confiscation of all movable and immovable property belonging to those expelled. Aside from all types of personal property, confiscation extended to houses, real estate, and commercial property, including businesses. Having been stripped of their possessions and livelihood, these persons were then expelled from the country without any form of compensation.

91. The issue of discrimination against the Turkoman population in relation to property was raised by the Special Rapporteur in his interim report (A/46/647, paras. 48 and 89). While the Government of Iraq initially denied the existence of any such discrimination, responding that "all Iraqis are subject to the same legal regulations concerning the disposal of real estate" and justifying certain "administrative procedures" by the argument of halting the "increasing migration from rural areas" (see page 48 of the interim report), the Special Rapporteur observes in the Government's reply of 23 January 1992 that such "administrative procedures governing the ownership of land in the Iraqi governorates, including the governorate of Ta'mim, have been abolished and any citizen living in the latter governorate, regardless of his ethnic affiliation, is now entitled to acquire ownership in real estate without being obliged to follow any of the administrative procedures that were formerly in force". Acknowledging this admission of discrimination having taken place, the Special Rapporteur wonders what steps are being taken by way of restitution or at least compensation for those discriminated against.

92. As regards matters relating to religious and cultural properties, the Special Rapporteur is especially disturbed by reliable reports of expropriation, confiscation and destruction of properties belonging to religious and cultural communities, specifically with regard to the destruction of churches and mosques, the destruction of religious schools, the confiscation of books and artifacts, and the expropriation of titles to real estate and corporate entities. However, in so far as these matters are directly related to other violations affecting these communities, they will be addressed below.

93. While the violations referred to above are serious in their own right, the Special Rapporteur is even more concerned about the reported abuses that their lawful sanction has permitted. Specifically, it has been reported that the large amount of wealth often involved in such violations has caused various authorities to invoke spurious allegations as a means of obtaining desired property or injuring personal enemies. Such abuses appear to have occurred on a large scale, owing largely to the absence of the rule of law, as discussed above.

B. Violations affecting ethnic and religious communities

General observations

94. It should be noted that the observations made elsewhere in this report also cover cases involving the ethnic and religious communities of Iraq, as well as all other parts of the state population. In this chapter, attention is drawn to situations which particularly affect these communities.

95. As noted above, Iraq is a party to the International Convention on the Elimination of All Forms of Racial Discrimination. Paragraph 4 of article 1, paragraph 2 of article 2, and article 5 of this Convention lay down certain duties of States Parties with regard to the undertaking of special measures for the purposes of establishing and maintaining equality between racial and ethnic groups within a country. In this relation, it would seem that the internal blockade against the Kurds and actions taken by the Government of Iraq to enforce many of the other official activities described in this chapter are contrary to the obligations the Government has accepted under this Convention.

1. Violations affecting the Kurds

96. The Kurdish population in Iraq numbers between 3.5 and 4 million. With its own language, history and cultural identity, the Kurdish population is territorily identified with the north-eastern part of Iraq running from the plains of Kirkuk to the mountainous borders of Turkey and Iran. While clearly identifiable as a cultural and linguistic minority in Iraq, Kurdish identity is not determined by any particular religious belief, although they are generally Sunni Moslems. Especially important, however, is the role of tribe or clan and its identity with traditional lands which have been cultivated for centuries.

(a) Genocidal practices

97. When large-scale violations of human rights are inflicted on one or more communities of a State population, in addition to those violations which have been directed against the population of the country as a whole, the question inevitably arises whether a government has engaged in genocidal practices as defined in article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide to which Iraq is a State Party. In this instance, the inquiry must address allegations brought against the Government of Iraq relating to the mass murder and execution of Kurds, the destruction of Kurdish towns and villages, forced urbanization and internal deportation, limits on ownership of private property by Kurds in areas designated by the authorities for inhabitance by the majority population, restrictions on agricultural activities, and the use of excessive force, including chemical weapons, against the Kurds in times of conflict.

98. The Special Rapporteur has heard in person and received in writing several testimonies about mass executions and murder of Kurdish civilians. A particularly gruesome account describes in detail the mass murder of Kurdish men, women and children during the "Anfal Operations" (see para. 103 below) of the Iraqi armed forces in 1988. An eye-witness, who had served as a

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governmental employee assisting with the many trucks used to bring victims numbering in the thousands to the execution sites, outlined an operation and identified the location of the resulting mass graves. It is worth noting that this account coincides with the horrifying story told by a young boy who survived a very similar massacre.

99. Several other accounts detail alleged mass executions and other atrocities committed by the Government against the Kurds which go beyond the cruelty and brutality directed against the population at large.

100. It is clear that deliberate actions of the Iraqi Government have caused refugee flows, forced urbanization and internal deportation affecting hundreds of thousands of Kurds. Detailed reports allege the destruction of some four thousand villages affecting well over a million people. One such report running into hundreds of pages details with charts and maps the destruction of 3,839 villages, hamlets and towns, 1,757 schools, 2,457 mosques and places of worship and 271 hospitals and clinics, along with the deportation of 219,828 families. However, according to Mr. Jalal Talabani of the Patriotic Union of Kurdistan, 1,732 villages have been rebuilt to some degree during the past year.

101. Another alleged method employed by the Iraqi authorities and leading to Kurdish displacement has been the denial of or placing of limits on the ownership or use of private property by Kurdish civilians, including private homes and farmland, in areas which the authorities have designatedfor inhabitance by the majority population or have designated "prohibited security zones". The Special Rapporteur has thus received recent reports of houses having been demolished in Kirkuk and of the Government preventing sowing in nearby and other farming districts. A concerted programme of urbanization or "village amalgamization" as the Iraqi authorities called it (see document 2 in annex II) has consequently changed the lifestyles and threatened the culture of the hundreds of thousands of persons affected. Information and testimony received allege a policy aimed at ending the traditional agricultural practices of a large part of the Kurdish population; sowing and cultivation has frequently been forbidden in large areas said to cover up to 75 per cent of the arable land, seeds have been stolen, hundreds of poultry farms closed and explosive mines laid over large parts of traditional farmland. These practices (especially the laying of explosive mines which have caused and continue to cause terrible injuries and loss of life) have been instituted in particular in areas under dispute with regard to the delimitation of the proposed autonomous zone.

102. The use of excessive force, including chemical weapons, against the Kurds is an established pattern. The Special Rapporteur heard several eye-witness accounts by survivors of various attacks by the Iraqi armed forces using bombardments from the air and chemical weapons against the unprotected civilian populations, resulting in large numbers of deaths and injuries. Specific attacks have been well-documented (as discussed above). In addition, the Special Rapporteur has heard a number of other accounts concerning indiscriminate shelling and the use of other heavy weaponry against unarmed or lightly armed Kurds during the various stages of the March 1991 uprisings.

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103. Perhaps the most heinous violations against the Kurds involve the systematic execution of the families of so-called "saboteurs". Documents said to be from Security offices in Kurdish cities corroborate the existence of a series of "Anfal" operations administered under the Office for the Organisation of the North between the autumn of 1987 and mid-1989. A great many of these documents would appear to refer only to confiscation of property, control of cattle movement and the closure of poultry farms, or the relocation of people into "amalgamated villages". However, when read as a whole and with the interspersed records of mass executions of "saboteurs" and their families, the scope of these operations becomes more and more apparent. Moreover, in as much as certain documents specify huge numbers of people (such as document 6, para. 5, in annex II) and other documents describe "saboteurs" as including the "Barzani group" (referring to the clan of that name), and in so far as none of the actions under these operations were subject to judicial review, it is evident that the scale of the operations was massive. Further, the previously referred to audio-taped conversation of the then Secretary General of the Office for the Organisation of the North (and present Minister of Defence) Mr. Ali Hassan al-Majid, confirms that these operations were indiscriminately aimed against Kurds as such. Hence, and in the light of the already over 15,000 names of disappeared Kurds that have been brought to the attention of the Special Rapporteur, Kurdish claims of some 182,000 disappeared persons cannot easily be dismissed. Thus, it would seem beyond doubt that these policies, and the "Anfal" operations in particular, bear the marks of a genocide-type design.

(b) The internal blockade

104. It is noteworthy that, at a time when the Iraqi Government is adamantly protesting against the embargo imposed by the international community, the same Government has put up an internal blockade on the import of food, fuel and medicines to the Kurdish areas of the country. Referred to by one Kurdish leader as "a siege within the siege", there can be no doubt that the internal blockade has resulted in more hardship for the most vulnerable in this part of the country. Particular hardship has been endured by the Kurdish community during this cold winter as the Government instituted the blockade, including of paraffin for heating, on 23 October 1991, just as the winter started setting in. Implemented through a series of armed checkpoints on every route in and out of that part of the Autonomous Region which is under Kurdish control, scrupulous sentries confiscate the smallest quantities of food and fuel, leaving half a tank of gas in cars and burning the rest.

105. Apart from imports of basic goods, the blockade involves the wholesale withdrawal of civil services from Kurdish areas, either by removing centrally based civil servants or by withholding the salaries of local civil servants. Obviously, this practice has resulted in the denial or reduction of social and other services which a government is expected to render. Remuneration for pensioners is also being withheld.

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(c) Autonomy

106. International human rights law provides for equality for individuals and groups of different national, ethnic, linguistic and religious origins within one and the same State. As a means of achieving this objective, the relevant international instruments prohibit discrimination and lay down rules concerning special measures and special rights for the benefit of those disadvantaged. In certain spheres of national life, such as in the fields of education, language, culture and religion, these rules are quite specific in nature and content, while States, still under the same obligation of guaranteeing and maintaining equality and non-discrimination, have so far enjoyed greater discretion in the regulation of other national sectors, such as those affecting their political and economic order.

107. The Government of Iraq has repeatedly emphasized the fact that it has chosen the path of suggesting autonomy for the Kurds. In itself, such a choice deserves praise because, although practised by many countries, it is not part of international human rights standards. However, in the light of the history and fate of these autonomy regulations and negotiations, not least in the light of recent and indeed current developments, serious doubts arise as to the significance of the autonomy which the Iraqi Government is willing to grant to the Kurds. The peaceful resolution of the conflict and harmonious relations appear low on the agenda of the Government. Its insistence on placing officials from security agencies within the autonomous zone, the arbitrary and unilateral delimitation of the Region's borders, and the ongoing internal blockade of food and fuel defeat the very purpose of the exercise.

108. At present, the negotiations on autonomy seem to have reached a complete impasse. In this context, it is worth repeating the clear and unambiguous statement of Deputy Prime Minister Tariq Aziz in conversation with the Special Rapporteur on 8 January 1992: discussing the issue of the negotiations on autonomy, Mr. Aziz asserted that "Iraq would be the first to recognize Kurdish independence". However, the Special Rapporteur equally notes the expressed will of the Kurdish representatives to resolve their disputes with the central authority within the framework of an autonomy agreement.

2. Violations affecting the Assyrians

109. According to information and testimony received by the Special Rapporteur, the Assyrians (a community primarily located in northern Iraq) have reportedly suffered continuous persecution since the coming to power of the Baath Party. The majority of the Assyrian population in Iraq belongs to the Christian faiths of Chaldae and Nestor, and, to a lesser extent, the Syrian-Orthodox Jacobites. Their total number is estimated at about one million, though some estimates are considerably higher.

110. Information received alleges that the Iraqi military destroyed large numbers of Assyrian villages throughout the past two decades, killing many of the inhabitants and forcing others to flee. The Assyrian community was also affected by mass internal deportations away from the northern border region. Further, it was reported that, in the course of air raids on Assyrian villages, after massacres, and after forced relocations, but also because of administrative regulations of the Baath Party, numerous Assyrian churches and monasteries (some of them over one thousand years old) were destroyed. In 1987, for example, a total of 85 Chaldean and Nestorian monasteries and churches were reportedly destroyed.

111. In an appeal made to humanitarian and international organizations on 19 September 1988, Bishop Zia Bobo Doubatou, the leader of the Assyrian Eastern Church in northern Iraq, denounced the continuing oppression and persecution of both Kurds and Assyrians in the northern Iraqi governorates of Heenoy, Dohuk, Arbil, Kirkuk and Sulaimaniya. Bishop Doubatou asserted violations ranging from executions, imprisonment for political reasons and destruction of churches and monasteries to the razing of villages. In particular, the Bishop alleged the use of chemical weapons, poisonous gases, and phosphorous and napalm bombs in the regions of Berwari, Afra and Al-Sheikhan, causing the death and injury of thousands of people as well as the loss of their homes of more than 150,000 people who fled to Turkey or Iran. Although the Bishop's letter was written some two months after the ceasefire between Iraq and Iran, he also alleged that a border strip 50 kilometres deep had been evacuated by the military after the destruction of the villages.

112. Other information received by the Special Rapporteur includes lists of allegations concerning the destruction of villages and the deportation of people from the regions of Berwari Balla, Nahla ('Oqra), Zakho, Dohuk and Neeroy Reekan between 1969 and 1987. Among these, the case of Soureya village stands out: it is alleged that the villagers - numbering 700, including children, women and elderly persons - were killed and burnt at the hands of Lieutenant Colonel Abd al-Karim al-Jouhaifi.

113. Notwithstanding the testimony to the contrary of three Christian leaders received by the Special Rapporteur in the al-Rashid Hotel in Baghdad on the evening of 8 January 1992, reports of the violations referred to above were corroborated by official documents said to have been found in Iraqi security offices and by testimony received from victims and eye-witnesses. One such testimony was received from a former Iraqi soldier who claimed to have taken part in the destruction of several Assyrian villages in 1988.

3. Violations affecting the Turkomans

114. The Turkoman minority is considered to be the third largest ethnic group in Iraq. Originally from Central Asia, they began settling in Iraq one thousand years ago and still inhabit the north and middle of Iraq, concentrated mainly in the provinces of Mosul, Arbil, Kirkuk and Diyala. At present, it is said, they number some two million people.

115. According to information received, a declaration on the rights of ethnic minorities, dated 24 January 1970, originally permitted the use of the Turkoman language in primary education and in newspapers and magazines. The Turkoman community was also granted permission for the broadcasting of radio and television programmes. However, according to reports, all of these rights were withdrawn a year later and the Turkoman population was subjected to systematic discrimination and abuse.

116. Alleged oppression and persecution includes arrest without charge, torture, internal deportation and exile, confiscation of personal and community properties, and execution. Such oppression and persecution is said to originate in a government policy to replace the Turkomans with Arabs in Kirkuk and other cities and towns where the Turkomans are particularly represented. In particular, Turkoman citizens of the Kirkuk and Ta'mim governorates are reported to have been subjected to restrictions on the purchase and sale of real estate (as discussed above): they have been allowed to sell only to Arabs.

117. Other communications addressed to the Special Rapporteur similarly denounce the discrimination suffered by the Turkoman minority, particularly the fact that they have been forced to leave their lands in the regions they have been inhabiting for centuries. It has further been alleged that, contrary to official statements according to which the Turkomans are considered a minority and thus granted the right to exercise all their cultural rights, the Iraqi Government obliges them to be registered either as Kurds or as Arabs. As such, the people are denied their rights as a Turkoman community.

4. Violations affecting the Shi'as

118. The Special Rapporteur has received considerable and significant information concerning the destruction, especially after the March 1991 uprisings, of the traditional culture of the Shi'as who constitute a large part of the population of Iraq. The Shi'a of southern Iraq are the descendants of the original population of Mesopotamia. Their culture, especially in their holy cities, has been described as extraordinarily rich.

119. With respect to violations affecting the community as a whole, certain events are relevant. For example, on 23 March 1991, the shrine of Immam Ali at Najaf was sacked and desecrated. This shrine is as sacred to the Shi'a as Mecca, since it contains the tomb of the Immam. All treasures stored in two large rooms of the shrine (jewels, gold and manuscripts) were said to have been taken by the Iraqi army. When the Special Rapporteur visited the vast Wadi al-Salaam cemetery, where Shi'a pilgrims from as far away as India and Afghanistan have been buried for over one thousand years, he noticed that a highway is being constructed over the graves in what is alleged to be an act of deliberate desecration; leaders of the religious community have not been consulted. In addition, the thousand-year-old Houza, the Shi'a university, was closed along with many other schools, private as well as religious, at Najaf, while libraries with manuscripts that constituted part of the Islamic tradition were destroyed.

120. The Government has also been waging a concerted attack against the Shi'a clergy. The number of clergy at Najaf had been reduced from eight or nine thousand twenty years ago to two thousand 10 years later and 800 hundred before the uprisings of 1991. It is alleged that virtually all of them are now under arrest or disappeared, as the Baath regime is seeking to destroy Shi'a culture by wiping out its traditional leaders of the ulema class. Several of them have allegedly been executed. Among those tortured and murdered was Ayatollah Bakr al-Sadr, a noted poet and author of famous works of Islamic philosophy. Among those who are still under constant surveillance is the 95-year-old Grand Ayatollah Abul Qasim al-Musawi al-Khoei, together with members of his family and staff, as well as teaching clergymen. Thousands of other Iraqis in the south are said to have suffered the same fate as the clergymen: arrests, imprisonment, torture and execution. It has been estimated that 150,00 people have been arrested in southern Iraq, 15,000 people from Najaf alone.

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121. In the aftermath of the uprisings in March 1991, the shrine of Immam Hussain in Karbala was shelled, badly damaged and desecrated. The Baathists later claimed that this was the work of the rebels, but it seems inconceivable that the Shi'a would defile their holiest shrine in such a manner.

122. In Samarra, the third among the sacred cities of the Shi'a, the Special Rapporteur was able to establish that the only Shi'a _madrasi_ (school) was destroyed and levelled. According to information received, this happened some weeks after the uprisings. In addition to this destruction, all the Shi'a clergy of Samarra, numbering some 48, have reportedly been arrested. Further, the Shi'a call to prayer, reinstated in a limited fashion in Najaf and Karbala, is said to be still prohibited in Samarra, as has been the Muharram mourning for Immam Hussain (the central religious ritual for all Shi'a Muslims) for the last five years.

123. In addition to the aforementioned, the Government's measures to suppress Shi'a religious and cultural rights have allegedly included:

(a) Restrictions on the public practice of Shi'a rites as prescribed by their religious notables;

(b) Seizure from the Shi'a _ulema_ of the administration of the Holy Shrines;

(c) Surveillance and intimidation of worshippers in Shi'a mosques and halls;

(d) Closure of Shi'a religious colleges and universities and prohibition of religious seminars except under official sanction;

(e) Restriction on the movements of religious leaders and scholars, both within the country and in terms of travel abroad;

(f) The launching of frequent "informational" campaigns against Shi'aism, accusing it of deviationism and heresy;

(g) Prohibition or strict censorship in the publication of many Shi'a books, magazines and pamphlets, while the Government's own religious affairs units refuse to countenance the publishing of any Shi'a works, contemporary or traditional;

(h) Prohibition of the broadcasting of any radio or television programme with Shi'a content;

(i) The launching of a campaign to prohibit the application of Shi'a law on personal and family matters, such as in the rites of marriage, inheritance, etc.;

(j) Prohibition of communication between Shi'as outside Iraq and the Supreme body on religious authority in the city of Najaf al-Ashraf;

(k) Special restrictions affecting the religious students and scholars who remain.

124. Several other measures have been said to have been undertaken by the Iraqi Government in its policy against the Shi'a cultural heritage. These are said to include the following forms of educational repression:

(a) Closure of all Shi'a parochial schools;

(b) Prohibition of the teaching of the Shi'a creed in any form in the State school system which, in its official curriculum, teaches only a variant of the Sunnite creed, despite the fact that the largest number of school children are Shi'a;

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(c) Nationalization, expropriation and closure of al-Fiqh College in Najaf (officially part of the state sponsored University of Kufa); reports indicate that this was the only remaining Shi'a academic religious college in Iraq teaching Shi'a theology and religious studies. According to these reports, its buildings have been converted into a commercial market and all of its students were transferred to the College of Shari'a (teaching Sunni theology) in Samarra, which is registered as part of the state-sponsored University al-Mustansariya;

(d) Nationalization, expropriation and closure of the Faculty of Islamic Jurisprudence and Literature at Baghdad, Department of Religion, which is attached to the Faculty of Shari'a at Baghdad University;

(e) Nationalization of the Faculty of Jurisprudence in order to attach it to the Ministry of Higher Education;

(f) Refusal of visas to foreign Muslim students in order to keep them from contributing to Shi'a religious scientific studies in Iraq, while other students and lecturers have been forced to leave the country under different pretexts, such as violation of the laws of residency.

125. The Special Rapporteur has received several lists containing the names of a large number of people detained by the Government, among them numerous people from the Grand Ayatullah's family, staff, and their relatives, and various Iranian, Lebanese, Indian, Bahraini, Afghani and Pakistani nationals (see, for example, appendix 2 to the interim report) as well as a list of religious scholars killed between 1974 and 1987. He has also received lists of large numbers of holy shrines, mosques, husainiyas and other religious institutions and schools, Muslim cementeries and public libraries destroyed by the Government forces. Evidently, the situation of the Shi'a religious community is extremely serious. However, the situation of the Shi'a community in the southern marshes appears to be more urgent and so warrants particular attention.

126. In connection with the so-called "Marsh Arabs" (an ancient people living in the southern marshes), it is worth noting a series of articles published in Al-Thawra (the Baath Party newspaper) in April 1991, in which it was said that the Marsh Arabs are a "monkey-faced" people who are not "real Iraqis" but are rather the descendents of black slaves brought to the south in the Middle Ages. The articles condemn the Marsh Arabs' culture as "primitive, debased and un-Iraqi". Their habits of personal hygiene and their intellects are said to be inferior.

127. According to information received by the Special Rapporteur, the Iraqi army is said to encircle the region of the marshes at the present time. The army is said to dispose of several helicopter airports within the region. Recent and continuing measures instituted by the Iraqi military forces against the population of the marshes (including Marsh Arabs, internally displaced persons and refugees, and army deserters) are said to include the tightening of control over food destined for the area, the confiscation of boats, and the evacuation of all areas within three kilometres of the marshlands. Further reports indicate that military attacks have been launched against the Marsh Arabs between 4 December 1991 and 18 January 1992, resulting in hundreds of deaths. Animal and bird life have also been said to have been killed in large numbers, while the marsh waters themselves have allegedly been filled with toxic chemicals. The apparent recent and continuing nature of the policy aimed against this particular part of the Shi'a community is most disturbing.

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C. Hostage taking and the use of persons as "human shields"

128. Iraqi acts of hostage-taking and the use of persons as "human shields" are two of the most conspicuous violations and are alarming in the complex of violations they reveal: the taking of hostages is contrary to the terms of article 13 of the Universal Declaration of Human Rights and article 12 of the Covenant on Civil and Political Rights, and it is strictly prohibited by article 34 of the Forth Geneva Convention of 1949. While the Special Rapporteur has already addressed the issue in relation to the events leading up to the recent Gulf war (A/46/647, paras. 24 and 76), subsequent allegations indicate that these events were not unique, but rather reflect a pattern of behaviour going back to the beginning of the Iran-Iraq war. Specifically, testimony received in refugee camps in southern Iran concerned Iranian civilians who had been taken hostage by attacking Iraqi forces in the southern Iranian border regions as long ago as the early part of the Iran-Iraq war. This testimony asserts that many Iranian civilians were rounded up by occupying Iraqi forces and transported back to Iraqi camps where they were generally mistreated and tortured, if not arbitrarily executed. Witnesses claim that many Iranian were forcibly conscripted into the Iraqi army to return and fight the Iranian army, which would be a "grave breach" under the terms of article 147 of the Forth Geneva Convention of 1949. Those who refused were subject to summary execution, which would be a "war crime" under the terms of article 6 of the Charter of Nuremberg. Several of those so brought out of Iran remain missing, while others stripped of their identity documents appear stateless.

129. The story of hostage-taking involving Iranian civilians during the Iran-Iraq war parallels strongly the proven cases of hostage-taking during the occupation of Kuwait. The Government of Iraq originally took some several thousand non-Kuwaiti foreigners hostage in Iraq and Kuwait. The release of these persons before the start of the coalition's attacks was off-set by the taking of Kuwaiti and other civilian hostages (including, among others, Egyptians and Saudis). Although many of these persons escaped during the March 1991 uprisings in southern Iraq, and many others were released by the Government of Iraq as part of the ceasefire agreement, allegations remain to the effect that Iraq continues to hold 2,101 Kuwaitis along with small numbers of nationals of other States. For its part, the Kuwaiti Association to Defend War Victims (a non-governmental organization) has a list of 1,053 persons of various nationalities who are allegedly still being held hostage in Iraq; 546 of these cases reportedly involve persons who have either been seen in detention in Iraq or were seen being abducted during the occupation of Kuwait. In reply to these allegations of the continuing detention of hostages in Iraq, the Government has acknowledged that there remain a significant number of Kuwaitis in Iraq, but asserts that they are all at liberty to return and have simply chosen not to do so (E/CN.4/1992/64, para.1).

130. According to reports from former hostages and according to testimonies received, those detained were subject to various forms and degrees of mistreatment. Allegations include: detention in inhumane conditions, lack of access to food and clean water, lack of medical treatment, the cutting of women's hair, beatings, rapes, and mental and physical torture. According to the testimonies of those formerly taken as hostages during the Iran-Iraq war,

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many were also forced to do labour while many others were arbitrarily or summarily executed. Aside from the clear breaches of human rights law that these allegations entail, such acts as are alleged are violations of article 27 of the Forth Geneva Convention of 1949 and constitute "grave breaches" under article 147 of that same Convention. It is further to be noted that the killing of hostages constitutes a "war crime" in accordance with article 6 of the Charter of Nuremberg.

131. In as much as certain of those taken hostage were used as "human shields" to protect potential military targets, Iraq committed outrageous acts in violation of a host of human rights norms and in violation of article 28 of the Forth Geneva Convention of 1949, which reads as follows: "The presence of a protected person may not be used to render certain points or areas immune from military operations". Article 23 of the Third Geneva Convention of 1949 similarly prohibits the use of prisoners of war as "human shields".

132. Given that many of the above allegations have been definitely proven, and given that Iraq has in fact admitted to the taking of hostages and the use of certain of them as "human shields", and given further that there can be no excuse for such grave breaches of the norms of international human rights and humanitarian law, the Special Rapporteur expresses the hope that appropriate compensation will be paid to the victims of these violations.

D. The plight of refugees

133. Undoubtedly the most striking testament to the situation of human rights in Iraq in recent years has been the decision of millions of Iraqi citizens to flee their homes in search of refuge. Perhaps this fact alone speaks volumes about the order of repression suffered for so long by so many. There can be no doubt that these people gave testimony with their feet to the extent of violations of human rights in Iraq.

134. During his January visits to Iraq and certain of its neighbouring countries, the Special Rapporteur saw with his own eyes the conditions these people had chosen to endure as refugees and heard with his own ears their stories of the outrages and indignities many of them had experienced and virtually all had witnessed. Of the over two million people who fled to the Kurdish hills and southern deserts to escape the indiscriminate attacks in March 1991 and the subsequent repression in April 1991, several hundreds of thousands of whom found temporary refuge in neighbouring countries, some 83,000 persons in Iran and another 33,000 in Saudi Arabia still remained in refugee camps at the time of the Special Rapporteur's visits in mid-January 1992. In the course of their flight, many became separated from their families or saw their very young, elderly and sick perish in the escape. Having left their homes and belongings behind them, these people now have to spend their lives as refugees. Many display the physical scars of their tortures, while all carry the deep emotional burden of their experience. Against this background, the Special Rapporteur cannot doubt that these refugees remain outside Iraq owing to a well-founded fear of persecution.

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135. In assessing the causes of this flight of refugees, the Special Rapporteur observes that the arrival of refugees across frontiers corresponds directly with expulsions (forced eviction, confiscation of properties and the stripping of all rights and legal status), the use of chemical weapons against Kurds in 1987 and 1988, and the use of weapons of indiscriminate and mass destruction during the March 1991 uprisings.

136. It is clear that the Government of Iraq is responsible for the causes of this flight of millions of refugees and remains responsible for the continued suffering of these people, in addition to that of the hundreds of thousands of persons expelled in previous years.

III. GOVERNMENT CORRESPONDENCE

A. Replies to the Special Rapporteur's inquiries

137. The following texts constitute additional replies of the Government of Iraq to the memorandum of the Special Rapporteur which was addressed to the Minister for Foreign Affairs on 16 September 1991, together with some replies to questions put by the Special Rapporteur to various authorities during his visit to Iraq from 3 to 9 January 1992. These texts are reproduced in their entirety, including all annexes.

138. By a letter from the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva, Ref. 7/4/Special/589, dated 11 December 1991, the Government of Iraq communicated the following:

> "The Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva presents its compliments to the Centre for Human Right and has the honour to request it to transmit the following information to the Special Rapporteur of the Commission on Human Rights on Iraq:
>
> "1. During an investigation in due and proper form which was supervised by an examining magistrate, it was decided to release seven accused persons (see Annex I) in view of the lack of adequate evidence to convict them on the charges brought against them.
>
> "2. Four accused persons (named in Annex II) were arrested in accordance with a written order issued by the competent examining magistarate when it was established that they were involved in criminal acts of murder and rape during the disturbances. They confessed to the charges brought against them and they were duly indicted under the supervision of the examining magistrate so that they could be brought before the courts.
>
> "The Mission takes this opportunity to convey to the Centre for Human Rights the assurances of its highest consideration.

Annex I

1. Karim Sami Farhan
2. Abbas Abdul Hussein Jasim
3. Muhammad Dhia' Abdul Amir
4. Haider Darib Muhsin
5. Jadir Abed Ni'ma
6. Ali Jallab Tahir
7. Haidar Kadhim Sa'id

Annex II

1. Haidar Abbas Hussein
2. Abbas Jasim Muhammad
3. Ali Muslim Musa
4. Haidar Mahdi Ubaid"

139. By a letter dated 18 December 1991, ref. 7/4/Special/599, the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva communicated the following:

> "The Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva presents its compliments to the Centre for Human Rights and has the honour to request the Centre to transmit the following to the Special Rapporteur of the Commission on Human Rights on Iraq:
>
> "With reference to paragraph 88 of the report prepared by the Special Rapporteur of the Commission on Human Rights on Iraq for the Third Committee of the United Nations General Assembly, contained in document A/46/647, the Iraqi authorities wish to state that, as already mentioned in their report submitted to the Special Rapporteur, which was annexed to the note dated 24 October 1991 from the Mission of Iraq at Geneva, the previous legislation shall be amended in a manner consistant with the multi-party system provided for in the Political Parties Act No. 30, which was promulgated on 1 September 1991. This legislation includes article 15, as amended, of Legislative Council (Autonomous Region of Kurdistan) Act No. 56 of 1980. To this end, the Revolution Command Council promulgated Act No. 37 of 10 December 1991, amending the afore-mentioned Act No. 56. The text of the amendment reads as follows:
>
> "Article 1
>
> "Paragraph 1(c) of article 15 of the Legislative Council (Autonomous Region of Kurdistan) Act No. 56 of 1980 is hereby abrogated and replaced by the following text:
>
> "(c): Believing in the independence, territorial integrity, sovereignty and national unity of Iraq; cherishing and taking pride in Iraq's heritage and glorious history and the achievements made during the national struggle, particularly the revolutions of 14 July 1958 and the glorious revolution of 17-30 July 1968; and undertaking not to adopt a hostile attitude towards the legitimate aspirations of the Arab nation to complete its liberation and achieve Arab solidarity and unity.
>
> "Article 2
>
> "This Act shall be published in the Official Gazette."
>
> "The Mission takes this opportunity to convey to the Centre for Human Rights the assurances of its highest consideration."

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140. By letter ref. 7/4/Special/43 dated 23 January 1992, the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva communicated the following:

> "The Permanent Mission of the Republic of Iraq to the United Nation Office at Geneva presents its compliments to the Centre for Human Rights and requests that the following documents attached herewith be forwarded to the Special Rapporteur on human rights in Iraq:
>
> "1. The replies of the Iraqi authorities to the Special Rapporteur's report contained in document (A/46/674) dated 13 November 1991.
>
> "2. The replies of the competent Iraqi authorities to several questions raised by the Special Rapporteur during his visit to Iraq of 3 to 9 January 1992, which include the following:
>
> "a. Table issued by the Department of Juvenile Reformatories indicating the numbers of youths detained.
>
> "b. Table issued by the Department of Adult Reform Centres, indicating the names of the social reform centres in Iraq and the numbers of their inmates.
>
> "c. Table indicating the number of persons sentenced to life imprisonment in accordance with article 1/225 of the amended Penal Code.
>
> "3. Several decisions which had been annulled in accordance with the recommendations made by the Committees dealing with the review of exceptional laws and decisions, though the Special Rapporteur had previously been informed of the repealed Decree No. 140 of 1990 on the annulment of the Revolution Court and also Decree No. 460 of 1985 which stipulated the punishment of persons who are members of the Da'wa Party.
>
> "4. As for the other questions raised by the Special Rapporteur, the Iraqi authorities are currently studying them so as to reply to the Special Rapporteur in due course.
>
> "The Permanent Mission takes this opportunity to convey to the Centre for Human Rights the assurances of its highest consideration."

141. The following texts were appended to the letter of 23 January 1992:

> "Paragraph 60
>
> "We wish to state that Iraq was not forced to engage in acts likely to restrict human rights. However, the abnormal circumstances with which the country was faced had adverse effects on human rights, for reasons beyond our control.
>
> "Paragraphs 63 and 64 (arbitrary detention)
>
> "With regard to paragraph 63 of the report, we wish to draw attention to a typographic error in the text of article 92 of the Code of Criminal Procedure, in which the word "law" was omitted between two words at the end of the article.*/ The true text of the article reads as follows: "No one may be arrested or detained without a warrant issued by a magistrate or a court of law, except in circumstances in which such is

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*/ Translator's note: This error appears only in the Arabic version of document A/46/647 (the omission of "by law").

permitted by law". Accordingly, the conclusions drawn from that erroneous text should be rectified in the light of its correct wording. There can be no arrest or detention without a warrant from a magistrate or a court of law, except in circumstances in which such is permitted by law. There are no exceptions to those circumstances and no persons are detained on the basis thereof.

"With regard to habeas corpus, we have already pointed out that the provisions of article 1 (a) of the Code of Criminal Procedure cover this principle, which is therefore applicable since, under the terms of that article, any person who comes to know of the commission of an offence has the right to institute proceedings against the offender. The persons vested with this right obviously include the victim himself, his relatives or representative, or any other person.

"With regard to paragraph 64 of the report, we have already stated in our reply to the remarks contained in paragraph 63 that there are no exceptions to the rule set forth in article 92 of the Code of Criminal Procedure that would permit arrest or detention in circumstances other than those provided for by law. Concerning the allegations that "thousands of persons have been arrested and detained by government forces without ever being informed of charges against them, without access to legal counsel or due process of law, and without the opportunity to contact their relatives", we wish to reaffirm our previous reply to the effect that these allegations are of a general nature and are not based on specific cases that can be verified. In this connection, it should be noted that these allegations are politically motivated and intended to besmirch the Government's reputation.

"With regard to the need for clarifications concerning the reference in Revolution Command Council Decision No. 26 of 1971 to "non-political persons", and "breaches of public order and morality", the mention of "non-political persons" is clearly intended to restrict the Administration's authority so that politicians can under no circumstances be liable to detention; i.e. the objective is to protect politicians from the possibility of a broader interpretation or abusive application of this text, thereby averting any possibility of its application to politicians. The expression "public order and public morality" means the elements of social discipline and the need for the individual to observe the social conventions that might have a religious, ethical or social basis. These elements differ from one society to another and from one period of time to another. The important point is that there are patterns of individual behaviour which might lead to an infringement of the social rights of others or the moral values of society and preventive measures must therefore be taken against such individuals. This forms part of the concept that we have already explained in our reply. At all events, such measures are of an exceptional nature and are subject to appeal before the administrative courts.

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"Paragraph 66

"While expressing its concern at the allegations made in regard to the cases of disappearance referred to in paragraph 66, the Government of Iraq reaffirms its desire to ascertain the fate of the persons who are alleged to have disappeared. The Government makes inquiries and carefully examines all the names received from the Working Group on Disappearances, the Special Rapporteur or any other body. However, it should be borne in mind that some major and disturbing obstacles still exist, such as the lack of State control in some border regions since the beginning of the Iraq-Iran war, particularly in the Autonomous Region in the north and in some parts of the Marshes in the south. This situation was aggravated by the Gulf war and the subsequent disturbances, which led to illegal movements by individuals over whom the State had no control. Many of them are undoubtedly living in special camps on Iraq's borders with Iran, Saudi Arabia and Turkey and this is creating further difficulties for the Government of Iraq in its endeavours to ascertain the fate of those missing persons, some of whom may be living in those camps. The emphasis that is being placed on this question is politically motivated and designed to besmirch Iraq's reputation. However, in spite of this situation and notwithstanding the Iraqi Government's awareness that this matter is being used to achieve well-known political aims to its detriment, the Government reaffirms its desire to cooperate with the United Nations with a view to reaching a final solution in this regard.

"Paragraphs 68, 69 and 70 (torture and inhuman or degrading practices)

"Paragraph 68 of the report states that the Government of Iraq chose to refrain from answering the questions concerning the allegations "of a general nature". We had replied that the statements made in that connection were of such a general nature that the Government of Iraq could not answer them unless details were provided concerning the incidents and persons concerned. Therefore, Iraq did not refrain from replying; it merely indicated that a reply was impossible for the above-mentioned reasons.

"With regard to paragraph 69 of the report, requesting details of acts of torture and inhuman or degrading practices during investigations and the actual extent of those practices in so far as they relate to the general allegations made to the effect that women and children were strapped to tanks during the disturbances, we wish to reaffirm that Iraq did not refrain from replying to those questions; in accordance with the requirements of accuracy and objectivity, it merely requested details concerning those incidents and the persons who were allegedly victims of that course of conduct so that the matter could be investigated and a reply given. We therefore once again stress the need for details concerning the incidents and the persons involved in those practices so that a legal investigation can be conducted. We deny that these alleged acts were committed by the armed forces.

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"With regard to the reference to a number of Iraqi court judgements imposing penalties on some persons who ill-treated and tortured suspects under investigation, the judgements sent were those that had become final. We wish to emphasize, once again, that the courts are never indulgent towards persons guilty of these violations, who are punished severely in accordance with articles 332 and 333 of the Penal Code. The victims are also awarded compensation for the material and moral damage that they have suffered.

"With regard to paragraph 70 of the report, we reaffirm that the measures taken to implement the principles concerning the protection of persons from arbitrary detention, torture and other cruel treatment are indicative of Iraq's constant desire not only to respect those principles in its legislation but also to put them into actual practice, as explained in detail in our reply to the questions. With regard to the comment concerning the widespread nature of such practices, as alleged in the reports received by the Special Rapporteur, we wish to reply that, as stated in the comment itself, this information was received in the form of unspecific allegations. If the Special Rapporteur could provide us with details of specific incidents and persons, on the basis of the information received by him, we would be able to take the requisite legal measures against the offenders.

"_Paragraph 78_

"However, it is a well-known fact that the aggression against Iraq following the Gulf crisis, together with the change in Iraq's overall political circumstances, the delay in the promulgation of the Political Parties' Act and the unstable situation in the region of Kurdistan, led to the postponement of the promulgation of the Permanent Constitution.

"With regard to section K, concerning religious practices, cultural properties and the destruction of some holy places and centres of religious studies, in our reply to the Special Rapporteur we did not say that "local Shiahs, assisted by Iranian Shiahs, were committing outrageous acts of desecration and destruction against their own most holy sites". We say that gangs of subversives and perfidious traitors, instigated by hostile political bodies which took their orders from leaders outside the country, turned religious centres into bases for resistance against the government authorities. These bases were also used for purposes of torture, trials and executions by those same gangs. The Government has all the evidence needed to prove this.

"With regard to the practice of religious observances in Iraq, as referred to in paragraph 94 of the report, there are no restrictions except in the case of those which are incompatible with public order and which might have adverse consequences for society, in so far as some of them reflect reprehensible customs that are detrimental to the individual and the community.

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"The damage caused to religious sites is currently being repaired by joint committees consisting of representatives of the Ministry of Awqaf (Religious Endowments), ministers of religion and local officials. This matter was clarified by the Minister of Awqaf and Religious Affairs during his meeting with the Special Rapporteur on 4 January 1992. With regard to banned religious books, a number of books have been banned due to the inter-communal bigotry that they promote, which poses a threat to the unity and future of society and is incompatible with the Islamic religion, the values and aims of society, and the laws in force.

"Paragraphs 79, 80 and 81, concerning the laws in force

"With regard to paragraph 79 of the report, we wish to reaffirm our reply to the effect that, from the time of its establishment, the Revolutionary Court was composed of three judges with a juristic background and the Department of Public Prosecutions was represented therein by a public prosecutor with a similar juristic background. The right of defence was guaranteed and the Court applied the provisions of the Penal Code. It followed the Code of Criminal Procedure, as applied in the ordinary courts. We also clearly indicated that this Court was abolished under the terms of Revolution Command Council Decision No. 140 of 1991 within the context of the abrogation of the laws, decisions and procedures of an exceptional nature which were necessitated by the abnormal circumstances with which the country was faced in past years.

"Only a few judgements were handed down by the Revolutionary Court pursuant to Decision No. 461 of 1985, Decision No. 840 of 1986 and article 200 of the Penal Code, as amended by Act No. 107 of 1974, Act No. 145 of 1976 and Act No. 111 of 1978. We wish to emphasize the fact that those decisions were originally promulgated solely in order to act as a deterrent and were not intended to be put into actual practice. This is a well-known practice in penal policy, particularly in exceptional circumstances, and is known as "promulgation of a text solely as a deterrent". We also wish to draw attention to two points that were emphasized in the general considerations: (i) the date of entry into force of Decision No. 840 was 4 November 1986, since it was promulgated on that date and not in 1980 as stated in the considerations;*/ (ii) we wish to reaffirm our reply to the questions, in which we pointed out that the State, through its competent committees, is diligently reviewing all the exceptional laws, decisions and procedures, including the decisions referred to in the considerations. This is confirmed, inter alia, by the abolition of the Revolutionary Court and the abrogation of Decision No. 461 of 1985, etc. The measures that have recently been taken include prohibition of the televised broadcasting of pictures of accused persons unless a final judgement has been handed down or in very exceptional cases in which such is required in order to promote a feeling of social stability and security in the face of crimes against society. This applies to the comments made in the first sentence of paragraph 81 of the report. With regard to the second sentence of that paragraph, we wish to emphasize that political offences, as defined in article 21 of the Penal Code, are offences which are politically motivated or detrimental to public or individual political rights. However, under the terms of that article, an offence is not deemed to be political if it constitutes: (i) an offence committed for a base and selfish motive; (ii) an offence prejudicial to the external security of the State; (iii) an act of murder or attempted murder; (iv) an attempt on the life of the President of the Republic, or an act of terrorism; (v) an offence against morality and decency, such as theft, embezzlement, forgery, breach of trust, fraud, bribery and rape. This yardstick, which Iraqi law has adopted to define political freedom, is the same as that adopted in many other countries.

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*/ Translator's note: This is a typographic error in the Arabic version of document A/46/647.

"Treatment of ethnic groups

"Legislative developments concerning the region of Iraqi Kurdistan since the publication of the interim report

"Further to the statements made in paragraph 88 of the interim report, concerning the requirements to be met by candidates seeking election to the Legislative Council of the Autonomous Region:

"In its reply to the Special Rapporteur's questions, Iraq referred to the amendment of its legislation in a manner consistent with the Political Parties Act No. 30 of 1991, which provided for political pluralism. The legislative provisions that have been amended include article 15, paragraph 1 (c), of Legislative Council Act No. 56 of 1980, as amended by Act No. 56 of 12 June 1986.

"Act No. 37 of 1991, which was promulgated on 10 December 1991 and published in the Official Gazette No. 3385 on 23 December 1991, amended article 15, paragraph 1 (c), of the Legislative Council Act to read as follows:

"(c) Believing in the independence, territorial integrity, sovereignty and national unity of Iraq; cherishing and taking pride in Iraq's heritage and glorious history and the achievements made during the national struggle, particularly the revolution of 14 July 1958 and the glorious revolution of 17-30 July; and undertaking not to adopt a hostile attitude towards the legitimate aspiration of the Arab nation to complete its liberation and achieve Arab solidarity and unity."

"The Special Rapporteur was duly informed of the above through the Iraqi Mission at Geneva. This text, which is consistent with the Political Parties Act No. 30 of 1991, will lead to the establishment of a country-wide multi-party political system.

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"Concerning the power of the President of the Republic to nominate the President of the Executive Council

"Paragraph 88 of the interim report states that only the President of the Republic may nominate the President of the Executive Council who, in turn, controls the membership of that Council.

"The same paragraph goes on to say that: "... it would appear that the wishes of the President of the Republic are to be served rather than those of the Kurdish people themselves. This would seem all the more true in view of the quoted legislation that requires candidates for the Legislative Council (from which candidates for the Executive Council may subsequently be nominated) to 'believe in the leading role of the Arab Baath Socialist Party' ...".

"This paragraph does not distinguish between "nomination as a candidate" and "appointment". In fact, the power of the President of the Republic in this regard is confined to the nomination of a candidate to serve as President of the Executive Council; it does not extend to his actual appointment. This candidature is subject to a vote of confidence by the Legislative Council and, if the candidate fails to win the latter's confidence, the President of the Republic must withdraw his nomination and nominate someone else. Accordingly, the power of the President of the Republic in regard to this nomination is subject to the approval of the Legislative Council itself.

"The amendment of Legislative Council Act No. 37 of 1991, regulating the conditions for the nomination of candidates to serve on this Council, also applies to candidates for the presidency of the Executive Council and will therefore contribute to the achievement of political pluralism.

"Difficulties and obstacles impeding the optimum application of the Autonomy Act

"We believe that the visit which the Special Rapporteur paid to the region of Iraqi Kurdistan on 6 and 7 January 1992 in an atmosphere characterized by the absence of official (central and autonomous) authority there, as well as his meeting with Mr. Tariq Aziz, the Deputy Prime Minister, on his return from the Autonomous Region, helped to clarify the background underlying the external political interference which had made it impossible to surmount the obstacles impeding the establishment of a better formula for autonomy. Although the serious dialogue between the Government and the Kurdish parties has produced sophisticated formulas for autonomy, the continuation of this dialogue is being threatened by multilateral external interference in spite of the affirmation by the political leadership of its earnest desire to promote more extensive autonomy within the framework of Iraq's territorial unity and integrity and the principle of non-discrimination among its citizens. For this reason, in our first reply, we stated that the autonomy plan for Iraqi Kurdistan was not given a fair opportunity to achieve the objective for which the Autonomy Act was promulgated, since a combination of several negative factors had thwarted the plan, the legal framework of which could have been developed through serious dialogue free of external influences.

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"We believe that the developments that have taken place in recent months, including the Special Rapporteur's visit to Iraq, have lent added weight to this point of view. The Government of Iraq emphasizes its desire and insistence that this dialogue should continue in an atmosphere far removed from external interference.

"The Turkoman minority

"We wish to point out that the administrative procedures governing the owernship of land in the Iraqi governorates, including the governorate of Ta'mim, have been abolished and any citizen living in the latter governorate, regardless of his ethnic or national affiliation, is now entitled to acquire ownership of real estate without being obliged to follow any of the administrative procedures that were formerly in force.

"Access to food and health-care requirements

"With regard to paragraph 95 of the interim report, we agree with the Special Rapporteur that obligations of non-discrimination arising under article 3 */ of the International Covenant on Economic, Social and Cultural Rights, do not depend on the degree of availability of the goods.

"Iraq has scrupulously respected the principle of non-discrimination in the distribution of basic foodstuffs, which are rationed. All the international organizations that have visited Iraq have testified to the equitable distribution of these goods in accordance with their availability, which is unquestionably insufficient by the international standards that have been adopted by the Food and Agriculture Organization of the United Nations. This equitable distribution is based on non-discrimination between citizens and residents and also among citizens themselves, regardless of their ethnic, religious or linguistic affiliation or the region in which they are living.

"With regard to paragraph 96, concerning the effect of the resolutions concerning the economic embargo on foodstuffs, a review of the series of Security Council resolutions shows that, although resolution 661 exempted foodstuffs in principle, resolution 666 vested the Security Council with the sole authority to assess the humanitarian circumstances that necessitate the import of foodstuffs. Moreover, the manner in which the Security Council has treated the question of the food security of the Iraqi people has been characterized by a politicization of this question since, although resolution 687 permitted the import of foodstuffs subject to prior notification, resolutions 706 and 712 subsequently made them subject to prior approval by the Sanctions Committee. Furthermore, without the provision of the resources needed to cover the cost of imports, the permission granted to import foodstuffs remains theoretical without any possibility of being put into practical effect.

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*/ Translator's note: In this connection, the Special Rapporteur refers to article 2.

"With regard to paragraph 97, in which the Special Rapporteur expresses concern that the Government of Iraq has not cooperated with the United Nations in the sale of oil for humanitarian purposes, we believe that Iraq's position on this question, and more specifically on Security Council resolutions 706 and 712, was explained to the Special Rapporteur during his meeting with the Deputy Prime Minister and the Minister for Foreign Affairs at Baghdad on 8 January 1992 and his meeting with Dr. Abdul Amir al-Anbari, Iraq's Permanent Representative at New York.

"Iraq has also submitted a document to the forty-eighth session of the Commission on Human Rights, under agenda item 7, concerning the effects of the economic embargo on the enjoyment of economic, social and cultural rights and Iraq's position in regard to Security Council resolutions 706 and 712.

"Through its dialogue with the United Nations, which began at Vienna on 7 January 1992 and is still continuing, Iraq is endeavouring to reach a positive solution on the question of the sale of petroleum.

"With regard to paragraph 98 of the report, concerning the government warehouses that are open only to State employees, we explained the reasons for this in our reply. These warehouses do not involve any discrimination among citizens, since their purpose is to help persons with limited incomes. Persons who are not State employees are able to join consumer cooperative associations. With regard to the increase in salaries, we explained that persons not employed by the State, i.e. those working in the private sector, were less affected by rising prices because their income increased in proportion to inflation.

"In reply to the Special Rapporteur's question concerning special measures taken to satisfy the needs of the most vulnerable sections of the population, such as infant children, lactating mothers, the elderly, the wounded and the sick, the State is endeavouring to satisfy their needs, within the limits of its available resources, since they are undoubtedly the most adversely affected by the economic embargo.

(A)

Republic of Iraq
Ministry of Labour and Social Affairs
Juvenile Reform Department
Office of the Director-General

Number of juveniles detained

Name of Institution Number		
1.	School for boys	119 inmates
2.	School for adolescents	581 inmates
3.	School for mature girls	541 inmates
4.	Rehabilitation centre for young male juveniles	25 vagrants
5.	Rehabilitation centre for young female juveniles	24 vagrants
6.	Baghdad remand centre for males	200 detainees
7.	Nineveh remand centre for males	30 detainees
8.	Baghdad remand centre for females	12 detainees
9.	Rehabilitation school for adolescents	1 inmate

(B) In the Name of God the Merciful the Compassionate

Republic of Iraq
Ministry of Labour and Social Affairs
Adult Reform Department
Office of the Director-General

Brief Summary

The Adult Reform Department of the Ministry of Labour and Social Affairs is responsible for administering the social reform sections at Abu Ghraib and its external sections in the governorates and has the right to supervise them in accordance with the relevant regulations and directives.

Social reform sections at Abu Ghraib (Baghdad):	5,357 inmates
Social reform section at Nineveh (governorate of Nineveh)	925 inmates
Social reform section at Diyala (governorate of Diyala)	615 inmates
Women's social reform section (town of Al-Rashad)	126 inmates

At the present time, the social reform sections at Basra and Babil have no inmates. The total number of inmates in the social reform sections is 7,023.

(C)

1. Number of persons sentenced under article 225/1 of the amended Penal Code

Number	Year
81	1987
185	1988
131	1989
51	1990
3	1991

All those sentenced, however, were released under the amnesty decrees issued by the Revolution Command Council.

2. The Special Rapporteur requested information on the number of persons sentenced to death in 1978. The number of those sentenced to death was 24 (twenty-four) only.

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Decision No. 200

Pursuant to the provisions of article 42, paragraph (a), of the Provisional Constitution, the Revolution Command Council, at its meeting held on 12 February 1984, decided as follows:

1. Any person employed by or working for a government department or the socialist sector shall be sentenced to a term of up to 10 years' imprisonment or not less than six months' detention if he is absent from work or exceeds his period of leave by more than three days without a valid excuse and fails to resume work despite a written warning from his department in accordance with the laws in force.
2. This Decision shall take effect from the date of its publication in the Official Gazette.

Saddam Hussein
Chairman of the Revolution Command Council

Decision No. 170

Date of the Decision: 22 Dhu'lqa'dah A.H. 1411 (A.D. 5 June 1991)

Pursuant to the provisions of article 42, paragraph (a), of the Constitution, the Revolution Command Council has decided as follows:

1. Revolution Command Council Decision No. 200 (two hundred) dated 12 February 1984 (the twelfth of February nineteen hundred and eighty-four) is hereby abrogated.
2. This Decision shall take effect from the date of its publication in the Official Gazette.

Saddam Hussein
Chairman of the Revolution Command Council

Decision No. 521

Pursuant to the provisions of article 42, paragraph (a), of the Provisional Constitution, the Revolution Command Council, at its meeting held on 7 May 1983, decided as follows:

1. The resignation of an Iraqi civil servant appointed in a government department or a department in the socialist or mixed sectors shall not be accepted prior to his completion of 10 years' actual service in such department.
2. A civil servant who resigns with the approval of his department following completion of the period referred to in paragraph 1 of this Decision shall bear the costs of all the educational courses which he has attended prior to his appointment or during his term of service.
3. A civil servant who resigns without the approval of his department shall bear the study costs referred to in paragraph 2 of this Decision and shall also forfeit the rights stipulated in Revolution Command Council Decision No. 700 dated 13 May 1980.
4. The competent ministries (the Ministry of Higher Education and Scientific Research, the Ministry of Education and the Ministry of Local Government) shall be responsible for assessing the costs of courses at the primary and secondary levels and at higher institutes and universities for the purposes of paragraph 2 of this Decision. Such costs shall be reviewed annually in the light of increased prices, service fees and study expenses.
5. Study cost assessments shall not be subject to appeal to any judicial or administrative authority. Such costs shall be recovered from the resigning employee in accordance with the provisions of Act No. 56 of 1977, concerning the collection of government debts, or any other enactment which supersedes it.
6. This Decision shall take effect from the date of its publication in the Official Gazette.

Saddam Hussein
Chairman of the Revolution Command Council

Decision No. 171

Date of the Decision: 22 Dhu'lqa'dah A.H. 1411 (5 June 1991)

Pursuant to the provisions of article 42, paragraph (a), of the Constitution, the Revolution Command Council has decided as follows:

1. Revolution Command Council Decision No. 521 (five hundred and twenty-one) dated 7 May 1983 (the seventh of May nineteen hundred and eighty-three) is hereby abrogated.
2. This Decision shall take effect from the date of its publication in the Official Gazette.

Saddam Hussein
Chairman of the Revolution Command Council

Decision No. 761

Pursuant to the provisions of article 42, paragraph (a), of the Provisional Constitution, the Revolution Command Council, at its meeting held on 3 July 1984, decided as follows:

1. Students who fail the final examinations in colleges and higher institutes shall be drafted into compulsory military service.
2. Students covered by the provisions of paragraph (1) of this Decision who do not complete their studies due to failure shall have the right to take the first and second stage examinations once only in one of the two academic years which follow their enlistment for military service. In the event of failure, they shall retain their right to complete their normal studies following completion of their military service.
3. The provisions of this Decision shall apply to students in higher education who fail to complete their studies within the maximum period prescribed for the course of study and obtainment of the certificate.
4. Any stipulation which is inconsistent with this Decision shall be null and void.
5. The competent ministers shall be responsible for the implementation of this Decision.

Saddam Hussein
Chairman of the Revolution Command Council

Decision No. 167

Date of the Decision: 22 Dhu'lqa'dah A.H. 1411 (5 June 1991)

Pursuant to the provisions of article 42, paragraph (a), of the Constitution, the Revolution Command Council has decided as follows:

1. Revolution Command Council Decision No. 761 (seven hundred and sixty-one) dated 3 July 1984 (the third of July nineteen hundred and eighty-four) is hereby abrogated.
2. Persons drafted into compulsory military service in accordance with the abrogated Decision referred to in paragraph 1 hereabove who wish to resume their studies shall be discharged from such service.
3. This Decision shall take effect from the date of its publication in the Official Gazette.

Saddam Hussein
Chairman of the Revolution Command Council

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Decision No. 160

Pursuant to the provisions of article 42, paragraph (a), of the Provisional Constitution, the Revolution Command Council, at its meeting held on 4 February 1984, decided as follows:

1. The competent minister or his authorized representative may call upon an employee or worker to work additional hours outside official working hours provided that such is done by way of a written order specifying the imperative reason therefor, the work which is to be completed by the employee or worker during such hours and the period of time required for its completion. The assignment must, however, be reviewed by the competent minister or his authorized representative every three months.
2. The employee or worker who is assigned additional work shall be recompensed by taking the actual additional hours into account for the purposes of bonus, promotion and retirement.
3. The additional hours referred to in paragraph 2 of this Decision shall be calculated as the difference between the total hours worked and the normal daily working hours in the department where the employee works.
4. The immediate and highest superior of the employee or worker shall be responsible for checking that he completes the additional work assigned to him after official working hours. An overtime register must be kept and signed by the persons working overtime.
5. The disbursement of overtime pay for employees and workers in all government departments and in the socialist sector shall be suspended from 1 February 1984 until further notice.
6. The Ministry of Finance shall be responsible for transferring the sums earmarked in the ordinary budget for overtime pay for the remainder of the 1984 financial year to its reserve account.
7. The sums earmarked in the budgets of the socialist sector departments for the overtime pay account shall be deleted.
8. This Decision shall take effect from 1 February 1984 and any stipulation which is inconsistent with its provisions shall be null and void.

Saddam Hussein
Chairman of the Revolution Command Council

Decision No. 168
Date of the Decision: 22 Dhu'lqa'dah A.H. 1411 (5 June 1991)

Pursuant to the provisions of article 42, paragraph (a), of the Constitution, the Revolution Command Council has decided as follows:

1. Revolution Command Council Decision No. 160 (one hundred and sixty) dated 4 February 1984 (the fourth of February nineteen hundred and eighty-four) is hereby abrogated.
2. This Decision shall take effect from the date of its publication in the Official Gazette.

Saddam Hussein
Chairman of the Revolution Command Council

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Decision No. 942

Pursuant to the provisions of article 42, paragraph (a), of the Provisional Constitution, the Revolution Command Council, at its meeting held on 3 September 1983, decided as follows:

1. The night allowances stipulated in article 12, paragraph 1 (c), of Act No. 38 of 1980, concerning mission and travel allowances, shall no longer apply to missions and travel inside Iraq.

2. This Decision shall take effect from the date of its publication in the Official Gazette until further notice.

Saddam Hussein
Chairman of the Revolution Command Council

Decision No. 169

Date of the Decision: 22 Dhu'lqa'dah A.H. 1411 (5 June 1991)

Pursuant to the provisions of article 42, paragraph (a), of the Constitution, the Revolution Command Council has decided as follows:

1. Revolution Command Council Decision No. 942 (nine hundred and forty-two) dated 3 September 1983 (the third of September nineteen hundred and eighty-three) is hereby abrogated.

2. This Decision shall take effect from the date of its publication in the Official Gazette.

Saddam Hussein
Chairman of the Revolution Command Council

Abrogated Decision

Decision No. 849

Pursuant to the provisions of article 42, paragraph (a), of the Provisional Constitution, the Revolution Command Council, at its meeting held on 5 July 1979, decided as follows:

1. Real estate which is included in the current implementation stage of the master plan for an administrative district and the parcelling of which was approved by the municipal councils in the capital and elsewhere prior to 7 February 1977, may be parcelled provided that this is not inconsistent with the said plan and that the parcelling is registered within one year of the date of the land registration departments being notified thereof and within six months of the date of promulgation of this Decision in the case of parcelling which has already been notified to the said departments.

2. The Baghdad Municipal Council or the municipality concerned may complete the parcelling on behalf of the owners of the real estate and at their expense if the parcelling is not registered within the deadlines stipulated in paragraph 1 of this Decision. Any expenditure to such end shall be regarded as a preferential debt to the Baghdad Municipal Council or the municipality concerned and shall be recovered from the value of the parcelled plots of real estate in advance of any other claim, even if such claim is preferential or secured by a pledge.

3. An additional annual charge amounting to 5 per cent of the estimated value recorded in the land register shall be levied in favour of the Baghdad Municipal Council or the municipality concerned in respect of each plot parcelled for the purpose of building homes in accordance with the provisions of this Decision if ownership of the plot is not transferred to a third party within one year of the date on which the parcelling is completed. Plots on which building has begun during the said period shall be exempt from the charge, which shall be levied from the beginning of the year following the end of the said period until ownership is transferred or building has begun. A partial year shall be regarded as a whole year for this purpose. Building work under way shall be disregarded for the purposes of this Decision unless it covers at least 30 per cent of the maximum permitted building area for each plot and is fenced on all sides in accordance with the building permit.

4. Sums due in accordance with this Decision shall be collected in the same way as municipality debts or when the building permit is granted or ownership transferred.
5. The Ministry of the Interior and the Baghdad Municipal Council shall issue the necessary instructions for the implementation of this Decision.
6. For the purposes of this Decision, any stipulation which is inconsistent with its provisions shall be null and void.
7. This Decision shall take effect from the date of its publication in the Official Gazette.

Ahmad Hassan al-Bakr
Chairman of the Revolution Command Council

Decision No. 348
Date of the Decision: 9 Rabi I A.H. 1412 (17 September 1991)

Pursuant to the provisions of article 42, paragraph (a) of the Constitution, the Revolution Command Council has decided as follows:
1. Revolution Command Council Decision No. 849 (eight hundred and forty-nine) dated 5 July 1979 (the fifth of July nineteen hundred and seventy-nine) is hereby abrogated.
2. This Decision shall be published in the Official Gazette, the competent authorities being responsible for its implementation.

Saddam Hussein
Chairman of the Revolution Command Council

Decision No. 1510

Pursuant to the provisions of article 42, paragraph (a), of the Provisional Constitution, the Revolution Command Council, at its meeting held on 21 November 1978, decided to approve the following principles and rules concerning payment for goods and services supplied to government departments and institutions in the socialist sector and the discharge of their outstanding debts.

1. Sale procedures
   - (i) The method of sale on credit to government departments and institutions in the socialist sector at wholesale prices for goods and services, the price of which exceeds 100 dinars, is approved as from the date of promulgation of this Decision, provided that payment is made within 30 days of the date on which the requisition orders are issued.
   - (ii) Payments shall be made on the basis of requisition orders instead of payment on account, failing which the sum paid shall be regarded as payment for the orders entered in the records of the department supplying the goods or services according to the chronological sequence of the order dates.
   - (iii) Debtor departments shall have an obligation to pay for goods and services supplied to them by enterprises and institutions in the socialist sector and other government departments by means of an authorized agent without resorting to postal communications. If registered post is used to send cheques in payment of requisition orders, the date of the post office registration shall be regarded as the date of payment.

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(iv) At the end of every month, the department providing supplies shall send to the debtor departments statements containing the details of orders unpaid during the period specified in paragraph (i) above. The General Accounting Directorate shall be furnished with a copy of such statements in so far as they relate to treasury departments. The debtor department shall investigate the reasons for the non-payment of such orders and shall ensure that they are paid as soon as possible. The employee responsible for the delay in payment shall be liable for back interest at an annual rate of 7 per cent for the period of delay and shall not be wholly or partially exempted from such liability without the approval of the Ministry of Finance.

(v) The General Accounting Directorate, in the light of the copies of statements referred to in paragraph (iv) above and in so far as the matter concerns treasury departments, shall be responsible for pursuing and guaranteeing payment within a maximum period of 30 days from the date of receipt of the statements.

(vi) Any differences of opinion which arise between the parties shall be settled through personal contacts between the accounting services in both departments within a maximum period of one month. Where agreement is reached, payment shall be made within one month of the date thereof, failing which the differing opinions shall be submitted to the competent ministries for final settlement of the matter within a maximum period of two weeks.

(vii) The department placing orders and that providing supplies may agree to open a mutual current account according to the requirements of the work, provided that the account is reconciled by means of monthly statements serving as a basis for settlement.

(viii) The various government departments may pay cash for goods and services supplied to them by institutions and enterprises in the socialist sector and other departments whenever it is appropriate to do so.

(ix) The departments providing supplies may cease supplying goods or services if the debtor departments fail to pay their outstanding debts within the period specified above until such time as payment is made.

(x) No institution or enterprise may refuse sale on credit until after the following measures have been taken. This does not, however, apply to government treasury departments.

(a) The institution or enterprise shall approach the competent ministry to seek agreement to a refusal of sale on credit, stating the reasons therefor.

(b) The competent ministry shall examine the request submitted to it. If the request is endorsed, the matter shall be submitted to the Office of the Auditor General for an opinion.

(c) The competent ministry shall submit the opinions to the Chef de cabinet of the President of the Republic for an appropriate decision to be issued on the matter.

(xi) The departments concerned shall be obliged to respond to requests for the endorsement of debit or credit balances for the purposes of the Office of the Auditor General.

2. The settlement of outstanding debts.

(i) Government departments and the socialist sector shall be responsible for preparing statements itemizing the sums owing to them, including details of unpaid supplies and orders, and shall send them to the debtor departments within a maximum of two months from the date of promulgation of this Decision. The debtor departments must pay the sums in question, following verification, within 30 days from the date of receipt of the statement. Protests concerning any sums must be accompanied by justifications and documents substantiating the protest within the same period.

(ii) Sums protested in the statements between the debtor department and the creditor department shall be settled in the manner specified in paragraph 1 (vi) above.

(iii) If no justifications or documents substantiating the protested sums are submitted within the 30-day period, the entire sum shown on the statement shall become payable on the day following the expiration of the said period. The employee responsible shall be liable for any damages arising therefrom and may not be wholly or partially exempted from such liability without the approval of the Minister of Finance.

(iv) If the period specified in paragraph (i) above expires without the debtor department having paid the sum shown on the statement or the protested sum, the creditor department shall notify the Ministry of Finance of the matter, enclosing a copy of the statement in substantiation, in order for the sum concerned to be paid from the appropriations of the debtor department or from its current bank account.

(v) The Ministry of Finance shall be responsible for increasing the appropriations allocated to treasury departments. The Rafidain Bank shall be responsible for increasing banking facilities to financially-independent departments in order to facilitate implementation of this Decision.

(vi) Debts outstanding to the end of the 1975 financial year may be paid on the basis of statements prepared in accordance with paragraph (iv) above. The statements shall be regarded as documents substantiating payment once they have been endorsed by the debtor department, by way of exception to the provisions of article 26 of Act No. 28 of 1940, concerning general accounting principles, as amended. Statements of debts outstanding after the said date must be substantiated by orders and documents which justify payment, or copies thereof, when the relevant sums are paid.

(vii) The competent ministry shall be vested with authority to cancel disputed credit balances which do not exceed ID 20,000 (twenty thousand dinars) in each case. Sums in excess of this amount must be approved by the Ministry of Finance. However, for verification purposes, the Office of the Auditor General must however be furnished with copies of the decisions to cancel such balances, which it shall have the right to dispute and to request their annulment or amendment. To this end, the Office may request assistance from the internal auditing services and its decision on the matter shall be final.

3. Any stipulation or decision which is inconsistent with the provisions of this Decision shall be null and void.

4. This Decision shall be published in the Official Gazette, the ministers being responsible for its implementation.

Ahmad Hassan al-Bakr
Chairman of the Revolution Command Council

Decision No. 201
Date of the Decision: 12 Dhu'lhijjah A.H. 1411 (24 June 1991)

Pursuant to the provisions of article 42, paragraph (a), of the Constitution, the Revolution Command Council has decided as follows:

1. Revolution Command Council Decision No. 1510 (one thousand five hundred and ten) dated 21 November 1978, as amended by Revolution Command Council Decision No. 1016 (one thousand and sixteen) dated 4 August 1979 (the fourth of August nineteen hundred and seventy-nine), is hereby abrogated.
2. The Ministry of Finance shall be vested with authority to issue instructions concerning the rules and principles for the collection of the amounts due in respect of goods and services supplied to government departments and the socialist sector and the collection of debts among them.
3. The competent ministers and the authorities concerned shall be responsible for the implementation of the provisions of this Decision.

Saddam Hussein
Chairman of the Revolution Command Council

Abrogated Amendment No. 1016

Pursuant to the provisions of article 42, paragraph (a), of the Provisional Constitution, the Revolution Command Council, at its meeting held on 4 August 1979, decided as follows:

1. The phrase "disputed credit balances", which appears in paragraph 2 (vii) of Revolution Command Council Decision No. 1510 dated 21 November 1978, shall be deleted and replaced by the phrase "debit balances in the disputed accounts of creditor departments".
2. This Decision shall be published in the Official Gazette, the competent ministers being responsible for its implementation.

Saddam Hussein
Chairman of the Revolution Command Council

142. By letter ref. 7/4/Special/25 dated 31 January 1992, the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva communicated the following:

> "The Permanent Mission of the Republic of Iraq to the United Nations Office and other international organizations at Geneva presents its compliments to the Centre for Human Rights and has the honour to request the Centre to transmit to the Special Rapporteur of the Commission on Human Rights on Iraq the table attached hereto, concerning the sentences passed by ordinary Iraqi courts (criminal courts) on the majority of the participants in the disturbances, according to the cities in which they lived. We have already informed the Special Rapporteur that 1,100 accused persons were not covered by the amnesty decrees (as mentioned on page 37 of the Special Rapporteur's report in the section headed "Effect of the recent general amnesty decrees"). However, it should be noted that 26 of the 1,100 accused persons were covered by the amnesty decrees due to the lack of evidence against them.
>
> "The Mission would be grateful if the Centre would kindly request the Special Rapporteur to include this information in his report to be submitted to the 48th session of the Commission on Human Rights. We will be sending him the replies of the competent authorities to the rest of his questions at a subsequent date.
>
> "The Permanent Mission of the Republic of Iraq takes this opportunity to convey to the Centre for Human Rights the assurances of its highest consideration."

B. Considerations of the Special Rapporteur

1. Information yet to be received from the Government

143. Before commenting on the substance of the replies the Special Rapporteur has so far received from the Government of Iraq, it is perhaps necessary to summarize those matters on which he has yet to receive any reply whatsoever. While the following list is not exhaustive, it reflects those matters to which the Special Rapporteur attaches considerable significance.

(a) The Special Rapporteur has yet to receive information on the number of applications for the equivalent of a writ of habeas corpus received and granted by the Government in the past year.

(b) The Special Rapporteur has yet to receive information on the number of persons taken into custody in the past year without the legal possibility of the equivalent right of habeas corpus.

(c) Notwithstanding the Government's oft repeated desire to cooperate, it has yet to indicate what procedural recourses are available for the investigation of reports of disappearances.

(d) The Special Rapporteur has yet to receive detailed replies to the specific individual cases of disappearance brought to the Government's attention in the memorandum of 16 September 1991.

(e) The Special Rapporteur has yet to receive information on the number of complaints of torture received, the number of investigations conducted, or the number of security personnel disciplined for each of the last four years.

(f) The Special Rapporteur has yet to receive information on the actual measures that have been taken to implement the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(g) In addition to failing to respond to specific cases of allegations of extrajudicial killings (as noted in para. 73 of the interim report), the Government has failed to indicate whether or not a government inquiry has been established to look into the various allegations.

(h) The Special Rapporteur has yet to receive specific details of the civilian and military laws permitting prosecution of those responsible for orchestrating and carrying out extrajudicial killings.

(i) The Special Rapporteur has yet to receive information on the number of persons prosecuted in each of the last four years for extrajudicial killings.

(j) The Special Rapporteur has yet to receive an indication of the recourse procedures available to the relatives of victims of extrajudicial killings.

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(k) The Special Rapporteur has yet to receive a response to the allegation of the Government's indiscriminate bombardment of residential areas during the March 1991 uprisings.

(l) The Special Rapporteur has yet to receive a response to the allegation that the Government gave instructions (during the March 1991 uprisings) to civilians to evacuate whole towns and larger centres, under threat of the use of chemical weapons and gases.

(m) The Special Rapporteur has yet to receive information concerning the percentage of cases heard by the Revolutionary Court that resulted in findings of guilt.

(n) The Special Rapporteur has yet to receive information on the percentage of trials by the Revolutionary Court and other special and temporary courts that were conducted in camera, or information on the percentage of defendants represented by lawyers of their own choosing.

(o) The Special Rapporteur has yet to receive information concerning the number of persons arrested for political offences each year since 1 January 1988.

(p) Irrespective of the fact that Mr. Ian Richter has since been released by the Government of Iraq, the Special Rapporteur remains interested in, but has yet to receive, most of the information requested in paragraph 42 of his interim report, especially a detailed description of the evidence upon which Mr. Richter was found guilty and spent five and a half years in prison

(q) The Special Rapporteur has yet to receive information concerning the extent to which the Turkoman language may be used in public institutions in those regions with large Turkoman populations.

(r) The Special Rapporteur has yet to receive copies of the Iraqi laws pertaining to nationality and deportation, as requested in his memorandum of 16 September 1991 and reiterated in paragraph 90 of his interim report. Likewise, he has yet to receive information on the definitions of the terms "Iranians" and "foreigners" as found in the Iraqi laws in question..

(s) The Special Rapporteur has yet to receive information on the numbers of religious institutions and theologians as of 1 January 1988 in the cities mentioned in paragraph 51 (a) of the interim report.

(t) The Special Rapporteur has yet to receive information on the consultations held between the Minister of Awqaf and Religious Affairs and representatives of the relevant religious communities concerning reparations to the damaged religious institutions and properties.

(u) The Special Rapporteur has yet to receive replies to the allegations relating to various prohibitions and restrictions on religious practices ranging from traditional dress to the performance of rites.

(v) The Special Rapporteur has yet to receive a reply to the allegation that more than 1,000 religious books have been banned by the Minitry of Information.

(w) The Special Rapporteur has yet to receive information detailing the exact special measures the Government claims to have taken to respond to the needs of the most vulnerable, such as infant children, nursing mothers, the elderly, the wounded and the ill.

144. In addition to the information noted above, the Special Rapporteur awaits the reply of the Government of Iraq to his specific requests for information about the fate of those persons named on the following three lists handed to Mr. Tariq Aziz on 8 January 1992:

(a) 104 Shi'a clerics said to have been arrested in Najaf during the period 20-23 March 1991;

(b) 6 Shi'a clerics said to have been taken to Najaf with the Grand Ayatullah Al-Khoie on 20 March 1991, and never seen again;

(c) 238 persons said to have been recently executed in Kirkuk, according to a letter from Iraqi Intelligence dated 16 September 1991.

2. Observations on information received

145. With respect to the substance of the replies from the Government of Iraq replies to the inquiries of the Special Rapporteur, there are several points worth mentioning. In general, the replies of the Government are simply inadequate in the face of the extremely serious violations that have been alleged. However, on the basis of the information that the Special Rapporteur has so far received from the Government, the following observations are called for:

(a) With regard to the Government's reference to "abnormal circumstances" appearing under the heading "Paragraph 60", it is sufficient to refer to the comments made in chapter II.B above.

(b) With respect to the second paragraph under "Paragraphs 63 and 64 (arbitrary detention)", it has already been pointed out that mere legal provisions, such as "the right to institute proceedings", do not satisfy the requirements of international obligations unless there is an appropriate order through which such a right may be secured. For this reason, it is important to know how often such a right has actually been invoked.

(c) The third paragraph, under the heading "Paragraphs 63 and 64 (arbitrary detention) seems clearly to miss the point in stating that "there are no exceptions to the rule ... other than those provided for by law"; it is precisely these exceptions to the rule ("provided for by law" or not) that interest the Special Rapporteur. To put the question more directly: Exactly what exceptions are provided for by law? In this respect, it is of course also relevant that Decrees of the Revolution Command Council have the force of law.

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(d) With regard to the "breaches of public order and morality" referred to in the last paragraph under "Paragraphs 63 and 64 (arbitrary detention)", the Special Rapporteur does not doubt the legitimacy of the notion, but is only concerned to know the substance of these prohibitions, the method of their determination and the way in which these prohibitions are implemented.

(e) Turning to the comments under "Paragraph 66", it cannot escape the atention of the Government that many of the cases submitted relate to events outside of war zones or areas of limited Government control. While it may be true that some of the "disappeared" may be displaced in various camps, such an argument does not explain many other cases. Indeed, given the scale and seriousness of the issue of disappearances, as discussed above, the reply of the Government that "emphasis ... on this question is politically motivated and designed to besmirch Iraq's reputation" shows insensitivity and disrespect for the families of those who continue to suffer the consequences, several of whom the Special Rapporteur has met.

(f) On the issue of torture, the Special Rapporteur insists that the matter is of such a grave nature and that the testimonies received from all parts so consistently indicate the same extreme practices that some reply is necessary beyond dismissal of the subject on the ground of its "general nature". At the very least, the Government should indicate the content of the specific measures it claims to have taken, indicating any preventive mechanisms it may be putting in place.

(g) In view of the Government's claim (at the end of the third paragraph under "Paragraph 78") that it has "all the evidence needed to prove" that others were responsible during the March 1991 uprisings for the desecration and destruction of various holy places, the Special Rapporteur would very much welcome such evidence being brought to his attention.

(h) Regarding the fifth paragraph under "Paragraph 78", the Special Rapporteur does not agree that the matter of consultations for reparations of religious sites was "clarified by the Minister of Awqaf and Religious Affairs during his meeting with the Special Rapporteur on 4 January 1992." Without doubting the existence of the "joint committees", the Special Rapporteur remains sceptical about the role of these committees and remains to be convinced of the existence of any genuine consultations in the absence of specific information from the Government about the composition and functioning of the committees and in the face of wholly contradictory information coming to the Special Rapporteur from reliable sources. As to the Government's admission of the banning of "a number of books ... due to the intercommunal bigotry they promote", the Special Rapporteur would appreciate a detailed and exhaustive list of these books, together with information on the exact terms by which they have been judged as promoting "intercommunal bigotry".

(i) With regard to the first paragraph under "Paragraphs 79, 80 and 81, concerning laws in force", the Special Rapporteur would appreciate precise information on the procedures by which the "right of defence was guaranteed" under the Revolutionary Court. Moreover, and regardless of the fact that the Revolutionary Court was abolished in 1991, the Special Rapporteur would like to know what steps have been taken to address the problem of persons still serving sentences handed down by that Court and to compensate those having improperly served penalties under judgment of that Court.

(j) In response to the Government's argument in the next paragraph that the cited Decisions were promulgated "solely as a deterrent", and that "only a few judgements were handed down by the Revolutionary Court" pursuant to them, it is to be observed that the mere promulgation of such a law as Decision No. 840 of 1986 (which, inter alia, subjects slanderers of the President, and others, to the death penalty) constitutes a violation of Iraq's obligations under international human rights law. Clearly, the effect, through fear, of this Decision would be to silence critics of the Government, thereby infringing upon the freedom of expression. Such fear and such an infringement would no doubt have been all the more pervasive and far-reaching given the fact that there actually were judgements rendered against "delinquents". On this point, it should be added that it is alleged that the actual use of these Decisions by security forces went far beyond "a few judgements".

(k) Near the end of the paragraph just referred to in the reply of the Government of Iraq, it is observed that what the Government contends is "not deemed to be political" under the terms of article 21 of the Penal Code includes "an offence prejudicial to the external security of the State", which seems to the Special Rapporteur to be a very broad notion and one perhaps even more broadly applied in Iraq during the conflicts that have run throughout most of the last decade. This is evidently the case in as much as the Special Rapporteur is in receipt of hundreds of official documents relating to arrest, detention and execution and referring very generally to "saboteurs".

(l) With respect to the third paragraph under the section on "the President of the Executive Council" of the Kurdish Autonomous Region, it is to be observed as a matter of logic that it would not be possible for the President of the Executive Council ever to be someone the President of the Republic did not approve owing to his prior control over all nominations. Hence, by controlling the process of nomination, the President of the Republic controls the process in general; any President of the Executive Council would be forever beholden for his nomination. So, there cannot be any apparent or real independence.

(m) In relation to the application of the Autonomy Act, and as already noted above, representatives of the Kurdistan Front made it clear to the Special Rapporteur that the real stumbling block in the negotiations concerned the insistance of the central authorities on the reintroduction of the security apparatus in the Autonomous Region.

(n) As concerns the Turkoman minority, it needs to be pointed out that while the removal of administrative procedures impacting upon their ability to acquire real estate is welcome, the effect of those previous procedures may well have been to alter the demographic make-up of certain specific localities. Consequently, the real issue is now one of reparation or compensation. To this end, the Special Rapporteur would be interested to know what measures have been taken.

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(o) In reply to the Government's contention at the end of the second paragraph under "Access to food and health-care requirements" that "the permission granted to import foodstuffs remains theoretical without any possibility of being put into practical effect", the Special Rapporteur notes that the application of this formula would necessitate the solution of a number of technical problems. However, the Special Rapporteur finds it difficult to believe that it would have been impossible to find a solution for them. In any event, it comes as a surprise to read in the communication of the Iraqi Government of 23 January 1992 that "Iraq is endeavouring to reach a positive solution on the question of the sale of petroleum", only to be informed on 4 February 1992 that Iraq has decided to break off the negotiations on this subject. As a consequence of this action of the Government of Iraq, an opportunity to purchase food and medical supplies in the sum of some 900 million dollars has been lost. As a result, the poorest and most vulnerable of the population will suffer.

(p) The Special Rapporteur finds the assertion that those in the private sector are less affected by inflation because their incomes increase "in proportion to inflation" to be an interesting explanation for the large pay increases in Government salaries. In fact, in most societies, it is often the civil service that belongs to the best protected from inflation because of their indexed incomes and because of the Government's power to print money. Usually, it is the low end of the private sector and those on fixed incomes (pensioners and persons supported by the State) who are inthe greatest need. In this connection, the Special Rapporteur continues to be interested to know precisely how the Government is "endeavouring to satisfy" the needs of the most vulnerable.

IV. CONCLUSIONS AND RECOMMENDATIONS

146. Since he was appointed in June 1991, the Special Rapporteur has received a constantly growing stream of information concerning human rights violations by the Government of Iraq, in the form of testimonies, written documents, photographs, videotapes and audiocassettes. It is to be expected that even more information will reach the United Nations Centre for Human Rights in the months to come. The evidence at present available might have been even greater if some people who were in a position to provide valuable evidence had not refused to do so because they were afraid, even after having been promised anonymity, that their relatives living in Iraq might suffer reprisals as a consequence.

147. The Special Rapporteur has carefully examined the evidence provided to him. He has been especially at pains to find out whether there might be any element in any information brought to his attention which would make it unreliable. As a consequence of this sifting process he has rejected some of the evidence.

148. The Special Rapporteur recognizes that the evidence he has received during the two months preceding the writing of this report, and especially the evidence he has received during his journeys to Iraq, Iran and Saudi Arabia, could not yet be submitted for comment to the Government of Iraq. On the other hand, he has to conclude that for many of the questions on which he did submit evidence to the Government of Iraq concerning human rights violations he either did not get a reply at all or received an unsatisfactory response. In any case, the evidence not yet submitted to the Government merely adds additional allegations to those which have already been submitted.

149. The Special Rapporteur does not discount the risk that, notwithstanding his considerable precautions, some exaggerations, mistakes or even falsehoods may have slipped through. But he also stresses the fact that the evidence he has collected shows remarkable consistency, even though it has come from a great number of different sources. Each testimony he received confirms the allegations that the State security services can deal with any Iraqi citizen as they see fit, without due process of law. Testimonies and documents received corroborate each other. For instance, it cannot possibly be maintained that the accusations concerning mass executions are just stories concocted by some exiles bearing a grudge against the Government of Iraq. As this report shows, there is a great deal of evidence supporting this allegation. Equally, the large number of people who complained to the Special Rapporteur about having been submitted to torture, and showed him the lasting effects on their bodies, provided irrefutable evidence of torture, often in its gravest forms, being practised on a very large scale. Also, it is not possible to explain away the long lists of people having disappeared by arguing that they might have been killed during the war or during the uprisings, or that they might have left for another country. Quite often, family members, neighbours or friends actually saw these people being arrested; afterwards, no more was heard from them. Finally, the Special Rapporteur feels obliged to point out that even persons who currently hold ministerial rank in Iraq apparently consider the execution of people suspected of being political opponents an acceptable practice. For example, Deputy Prime Minister Tariq Aziz stated during a discussion with the Special Rapporteur concerning the disappearance of a considerable number of Shi'a clerics: "If they have been executed, I am not going to apologize for this". For his part, the present Minister of Defence, Ali Hassan al-Majid, did not hesitate to state some years ago (in the recorded conversation referred to above), when he was Secretary General of the Office for the Organization of the North, that his way of looking after the families of Kurdish "saboteurs" was "to bury them".

150. Weighing all the evidence he has assembled, the Special Rapporteur has no hesitation in concluding that there have been massive violations of human rights of the gravest nature for which the Government of Iraq may be held responsible. Nor is there any reliable indication that the Government of Iraq has taken steps to ensure that there will be no further violations of human rights.

151. With respect to the many violations which have occurred, the Special Rapporteur concludes that any special circumstances which may currently prevail in Iraqi society cannot be employed to justify exceptions from the applicable international human rights standards beyond what is allowed in the relevant derogation clauses, that is to say those of article 4 of the Covenant on Civil and Political Rights.

152. The volume of accumulated evidence described above, much of which the Special Rapporteur collected himself, leads to the firm conclusion that the Government of Iraq has systematically violated and continues to violate the international human rights obligations it has undertaken. The number of victims suffering from these violations is certainly in the hundreds of thousands, if not much higher. In the light of the above, meaningful improvement in the human rights situation in Iraq requires drastic changes in the conduct of government, including the review and revison of national

legislation to make it consistent with the applicable international human rights instruments, the extension of the rule of law to all branches and levels of governmental activity, and guarantees for the independence and impartiality of a judiciary with jurisdiction over all these branches and levels of activity. Such changes have to be complemented by unambiguous measures aimed at securing the confidence of the population in the institutions.

153. With respect to the Kurdish minority, there is reason for special alarm because there have been human rights violations directed against the Kurdish people as such. Specifically, there have been violations of the Covention on the Elimination of All Forms of Racial Discrimination and of article 27 of the International Covenant on Civil and Political Rights. Moreover, whether or not the design and implementation of the Anfal Operations may actually constitute breaches of the Convention on the Prevention and Punishment of the Crime of Genocide, it is clear that the Anfal Operations constituted genocide-type activities which did in fact result in the extermination of a part of this population and which continue to have an impact on the lives of the people as a whole. Further, and in relation to the Anfal Operations specifically, there can be no doubt that particular individuals bear the burden of a large part of the responsibility.

154. Having studied the situation of human rights in Iraq, after having been to Iraq and after having met numerous persons inside and outside the country (at least such persons as would dare to speak), the Special Rapporteur concludes that the violations of human rights which have occurred are so grave and are of such a massive nature that since the Second World War few parallels can be found. Nor is it likely that these violations will come to an end as long as the security forces have the power to decide over the freedom or imprisonment, or even life or death, of any Iraqi citizen. With every day that passes, new names will be added to those of the thousands of Iraqi citizens who have been victims of human rights violations.

155. Given the legal and political order that characterizes the Government of Iraq, the Special Rapporteur concludes that the present order precludes full respect of human rights obligations. Specifically, so long as the rule of law remains undermined by the parallel orders of extra-judicial and even extra-legal rule, administered essentially by a security apparatus only accountable to the inner circle of the Presidency, there cannot be any meaningful enjoyment of human rights or any genuine respect for the dignity of the individual. Further, because it is clear that power over all three parallel orders of rule - "normal", "extra-judicial" and "extra-legal" - is concentrated in the persons of the President and a few senior members of the Government, special responsibility must accrue to these persons.

156. In the light of all of the above, therefore, the Special Rapporteur recommends that the Commission on Human Rights, confronted with such an intolerable situation, does not confine itself to condemnation alone. In his view, this exceptionally grave situation demands an exceptional response - a response that would have to be considered as disproportionate in most other cases of human rights violations. Specifically, the Special Rapporteur recommends the sending to Iraq of a team of human rights monitors who would

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remain in Iraq until the human rights situation had drastically improved and who should be able to: (i) move freely in any part of Iraq; (ii) investigate information concerning alleged violations of human rights; (iii) visit, without prior notification and at the time of their choosing, places where persons are deprived of their liberty; and (iv) observe trials and court proceedings.

157. Considering the fact that thousands of persons are in danger of arbitrary detention, torture or execution, the Special Rapporteur urges that no effort be spared to ensure that the monitoring system comes into being as soon as possible. If the Iraqi Government could be persuaded to accept the monitors, this could be a highly significant step towards improvement of the human rights situation.

158. Irrespective of the reaction of the Government of Iraq to the formula of a human rights monitoring system, there are some other important steps which it ought to take in order to ensure that it respects the obligations which it has undertaken in accepting a number of human rights conventions. The Special Rapporteur therefore recommends that the Government of Iraq be urged:

1. To ensure that the activities of the security services are submitted to completely transparent legal constraints so that the arbitrary arrest, torture or extrajudicial execution of Iraqi citizens no longer occurs;

2. To set up a commission of enquiry into the fate of tens of thousands of disappeared persons. Such a commission should be able to work independently and without governmental guidance. Considering the atmosphere of fear prevailing in Iraq, the Government ought also to give a public promise, guaranteed by appropriate legal mechanisms, that no retaliatory action would be taken against citizens who ask the commission for information about the fate of family members who have disappeared. The commission of enquiry ought to have free access to any data the security and police services might possess about the fate of persons they have arrested since the present regime came to power. It should also be enabled to make its findings public at regular intervals and to make recommendations concerning the release of disappeared persons who might still be found alive;

3. To take measures to end the widespread practice of torture. The assurances of Ministers that those found guilty of practising torture will not escape punishment are clearly insufficient for the simple reason that, as long as torturers enjoy any degree of impunity and, indeed, protection from the government apparatus, scarcely any (former) prisoner or any of his relatives will dare to complain;

4. To renew the negotiations on a "food for oil" formula, which, once agreement has been reached, could enable the Government of Iraq to buy food and medical supplies with a total value of over 900 million dollars;

5. To end the blockade of the Kurdish controlled area of Iraq:

6. To restore full religious freedom to the Shi'a community, including control of their religious properties.

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159. Finally, the Special Rapporteur notes Security Council resolution 688 of 5 April 1991 in which Iraq was called upon to "immediately end this repression" as "a contribution to remove the threat to international peace and security in the region". In as much as the repression continues, the Special Rapporteur can only conclude that the threat remains and thus extraordinary measures, such as the recommended broad-based human rights monitoring operation, are warranted.

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Annex I

NON-GOVERNMENTAL ORGANIZATIONS WHICH PROVIDED INFORMATION

Ahl Ul-Bayt Islamic Center, London
Al-Khoei Foundation
Amnesty International
Anjuman-e-Hussainia and Jeffrey Mosque
Arab Organization for Human Rights
Association Irakienne des Droits de l'Homme
Association Islamique Irakienne en France
Association Suisse-Kurdistan
Association des Travailleurs Turcs
Bureau des Mojahedines du Peuple d'Iran
Catholic Relief Services
Coalition for Justice in Iraq
Committee Against Repression and for Democratic Rights in Iraq
Committee for the Defence of Human Rights in Iraq
Comité du Kurdistan
Documental Center for Human Rights in Iraq
Federation of Kurdish Associations in Sweden
Fédération Internationale des Droits de l'Homme
Finland's Peace Committee
Finnish Friends of the Kurds
General Federation of Arab Journalists
Gulf War Victims
Human Rights Society in Iraq
International Centre for Trade Union Rights
International Commission of Jurists
International Commission on Radical Neutrality
International Committee for a Free Iraq
International Progress Organisation
Institut Kurde de Bruxelles
Islamic Center of America
Komitee Menschenrechte im Irak
Komitee zur Rettung der Kinder im Irak
Kurdish Faili Group
Kurdish Organization of Human Rights
Kurdistan Human Rights Organization, Arbil Branch
Kurdistan Human Rights Organization, Sulaimaniya Branch
Kurdistan Medical Society
Kuwaiti Association to Defend War Victims
Lawyers Committee for Human Rights
Ligue des Droits de l'Homme
Ligue Tunisienne pour la Défense des Droits de l'Homme
Majlis-E-Ulamawa Khutaba Delhi
Medecins Sans Frontières (Pays-Bas)
Middle East Watch
Minority Rights Group
National Forum for Peace and Integration
National Union of Iraqi Students
Organization for Defending Victims of Violence

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Organization of Human Rights in Iraq
Organization of Human Rights, Peace and Democracy for Iraq
Organization of Women's Rights In Iraq
Patriotic Union of Kurdistan
Physicians for Human Rights
Public Affairs Committee for Shi'a Muslims
Quaker United Nations Office
Society for Threatened Peoples
Union of Arab Jurists
Union Interparlementaire
World Ahl Ul-Bayt Islamic League

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Annex II

SELECTED DOCUMENTS ALLEGEDLY FOUND IN IRAQI SECURITY OFFICES

The following texts are translations of selected official documents of the Government of Iraq said to have been taken from the offices of regional Security Departments in the Autonomous Region of Kurdistan; the list of names annexed to document No. 5 is not reproduced, but is in the possession of the Special Rapporteur.

Document No. 1

Office of the President
The Secretary
Public Security Department
Security Department of Sulaimaniya/Investigation

No. 25163
Date 19 October 1988

(Confidential, to be opened in person)

Distinguished Director of the Autonomous Region

With reference to our telephone conversation, the statistics requested are as follows:

1. Nine criminals belonging to subversive groups were executed by this Department, with the approval of the Office for the Organization of the North.

2. Nineteen accused persons were executed by this Department on the grounds of their presence in villages inside the prohibited security zone, as stipulated in paragraph 5 of a telegramme sent by the Security of the Organization of the North, No. 4008, dated 20 June 1987.

3. Six families of the criminals referred to in paragraph 1, comprising a total of 18 persons, were executed by this Department in accordance with the instructions of the Office for the Organization of the North.

4. Forty-seven accused persons belonging to subversive groups were referred to the President of the Revolutionary Court for investigation. They were sentenced to death.

5. 2,532 individuals and 1,869 families totalling 9,030 persons, who were among those arrested during the heroic "Anfal" operations, were sent to the popular army camp in the governorate of Ta'mim.

Director of Security
Governorate of Sulaimaniya

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Document No. 2

Arab Baath Socialist Party / Iraqi Branch
Headquarters of the Office for the Organization of the North

No. 28/3650
Date: 3 June 1987

To: Commands of First, Second and Fifth corps,
Commands of branch offices,
Command of Salahuddin branch,
Command of Diyala branch,
Security Department of the Autonomous Region,
Security Department of the Governorate of Arbil,
Intelligence Department,
Military Intelligence Organization

Subject: Decision

1. Foodstuffs, persons and machines are strictly prohibited from entering villages in the prohibited security zone which are covered in the second phase of the village amalgamization. Any person wishing to return to the national fold is allowed to do so. However, relatives can be allowed to contact them only with the knowledge of the security authorities.

2. No one is allowed to be in phase 1 prohibited villages, nor in phase 2 villages until 21 June 1987.

3. The winter season for harvesting should end before 15 July. Agriculture should not be allowed to continue for the coming summer and winter periods.

4. Animal husbandry is also prohibited in these areas.

5. The military forces, within their respective sectors, have a duty to kill any person or animal found in these areas, to which access is strictly prohibited.

6. The persons covered by this decision shall be notified of their relocation to gathering centres. They shall be held responsible for non-compliance.

For information and action.

(signed) Comrade Ali Hassan al-Majid
Secretary-General of the Office
for the Organization of the
North

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Document No. 3

Arab Baath Socialist Party
Headquarters of the Office for the Organization of the North

No. 70n, secretariat office
Date: 17.9.1987

Personal and highly confidential

To: The Eastern Region Intelligence Organization

Subject: Network of internal organizations

With reference to your letter dated 14 September 1987, the following points need to be highlighted:

1. The proposals made in the above-mentioned letter have been approved. Hence, the criminals' families shall be detained and their houses demolished after they have been executed.
2. The accused Faridoun Aref Hussein shall be used through one of the security agencies.
3. Comrade Ali Hassan al-Majid, who is in charge of the Office for the Organization of the North, expresses his gratitude and appreciation to the Director of the Eastern Region Organization and to all those who assisted him in this matter.

For information and action. Please keep us informed.

With our appreciation,

(signed)

Taher Tawfiq
Secretary of the Committee
for the Affairs of the North

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Document No. 4

Arab Baath Socialist Party / Iraqi Branch
Headquarters of the Office for the Organization of the North

No. 6236
18.10.1987

Confidential and personal

To: The security committees and departments in the Autonomous Region and in Salahuddin and Diyala governorates

Comrade Ali Hassan al-Majid, the official in charge of the Office for the Organization of the North, stresses the need to carry out the instructions in confidential and urgent cable no. 4008, dated 20 June 1987, on the subject of offenders.

Airplanes will be used in the searches to ensure correct implementation of the instructions. If winter ploughing or cultivation is detected at the villages within the prohibited security zone, the security committee concerned shall be held fully accountable to Comrade Ali Hassan al-Majid. Moreover, military units shall execute the orders contained in the above-mentioned cable to the letter.

For information. You are requested to provide us with detailed information of the action taken.

(signed)

Taher Tawfiq
Secretary of the Committee for
the Affairs of the North

Document No. 5

From: Office of the President
The Secretary, Public Security Department
Sulaimaniya Security Department
No. sh.t/15486
Date: 14/6/1989
To: Public Security Department, Section 3,
Subject: Lists

We are sending you detailed lists of names with Security Lieutenant Abd Al-Hakim Mahmoud Hammada. They include the names of forty-four criminals who were executed and others who died during interrogation following the searches carried out in 1985 in Sulaimaniya governorate. It was agreed that special case-files should be prepared for them, but no death certificates were issued.

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We therefore request that this subject be brought to the attention of the Director-General for the approval of the issue of death certificates for them, in coordination with the Public Security Clinic. It should be noted that their names were included in the lists sent to you under cover of our confidential and personal letter No. 19820 dated 2/6/1987.

Please advise.

Director of Security
for
Sulaimaniya Governorate
14/6/1989

Annexed: List of names

Document No. 6

Office of the President
Secretary
Public Security Department
Saulaimaniya Security Department

No. 21308
Date: 16.9.1989

Highly confidential

To: Public Security Department, Section 3
Subject: Citizen's Inquiry
Reply to cable No. Q4/55860
Dated 11.9.1989

A citizen named Bakiza Omar Saíd inquired after her relative, a criminal named Burham Omar Saíd who was sent to Sulaimaniya Security Department from the Autonomous Region's Security Department, Branch 2. This was carried out in accordance with the personal and highly confidential letter No. 21287 dated 23.9.1987. Moreover, the person in question was accompanied by four other criminals who were referred by the Eastern Region's Intelligence Organization together with a copy of a request made by the latter to comrade Ali Hassan al-Majid, member of the Country Command. A copy of letter No. 5870 dated 17.9.1987 from the Office for the Organization of the North, dealing with the implementation of their death sentences, the arrest of the criminals' families and the demolition of their houses, except governmental and rented houses, was also included. Furthermore, the criminals' movable and immovable property was confiscated because of their association with pro-Iranian subversive groups and their kidnapping of citizens from the city of Sulaimaniya. Moreover, they assassinated comrade Abdullah, a Kurdish civil servant employed in the Sulaimaniya Department of Agriculture, who was also a member of the Baath Party, at 1:15 p.m. on 24 October 1987. The criminals were shot in public by a firing squad from our Department under the supervision of the Governorate's Director of Security at the time. The execution, which was witnessed by representatives of the Eastern Region's Intelligence Organization, the Deputy Secretary of the Sulaimaniya of the Baath Party, and heads of official bodies, was carried out at the same place where Abdullah was assassinated.

Furthermore, the Autonomous Region's Security Department Section 2 informed us, in confidential letter No. 25789 dated 22 December 1987, quoting letter No. 6806 dated 12 December 1987 from the Office for the Organization of the North, that the families of three criminals should be quietly eliminated, including the family of Burham Omar Saíd, and the other two families should be detained for six months. This was done. For your information.

Director of Security of Sulaimaniya Governorate,
16.9.1989

Annex III

A SAMPLE LIST OF PERSONS SAID TO HAVE DISAPPEARED IN IRAQI CUSTODY

The following is a sample list of the names and particulars of persons said to have disappeared in Iraqi custody. Aside from the information given below, descriptions of each person (together with a photograph and often including personal identity documents) have been supplied to the Special Rapporteur. Although almost four thousand individual cases have previously been supplied to the Government of Iraq through the procedures of the Working Group on Enforced or Involuntary Disappearance, it is to be noted that the cases referred to below have not yet been transmitted to the Government. This will be done in due course.

No.	Name	Date of birth	Occupation	Date and place of arrest	Responsible force	Address	Remarks
1.	Maqdeed Karim Mustafa	1970	Worker	02.04.1991	Security	Arbil, Eloukhwa.	Id. no.695636
2.	Anwar Ismail Mohammad	1954	Teacher	31.03.1991 at Kirkuk	Security	Arbil, Tajhil.	Id. no.705060
3.	Haider Ali Peerdaoud	1971	Worker	01.04.1991	Security	Arbil, Saydawa.	
4.	Mohied Hussien Mohmd.	1970	Student	21.03.1991	Security	Arbil, Seberdan	Id. no.G308750
5.	Khalil Wesue Rahman	1970	Worker	01.04.1991	Security	Arbil, Sawecece	Id. no.M549676
6.	Mohmd. Saleem Mustafa	1952	Employee	01.04.1991	Security	Arbil,	Tel: 25701
7.	Nejat Mohmd. Ali	1962	Worker	01.04.1991	Security	Arbil, Aladul	Id. no.222129
8.	Salahuddin Habib Abdullah Qadeem	1960	Worker	01.04.1991	Security	Kirkuk, Iskan	
9.	Aziz Osman Hamed	1964	Worker	02.03.1991	Security	Arbil, Alshat	
10.	Mohmd. Rahman Qader	1973	Worker	02.04.1991	Security	Arbil, Saitaqaan	
11.	Ismail Taher Qader	1976	Worker	03.04.1991	Secutriy	Arbil, Saitaqaan	
12.	Yosef Omar Qader	1964	Worker	03.04.1991	Security	Arbil, Shoresh	Id. no.G682029
13.	Qader Mohmd. Abdullah	1957	Worker	01.04.1991	Security	Arbil, Saddam	Id. no. 113302
14.	Kakem Aziz Qader	1957	Worker	01.04.1991	Security	Arbil, Sataqaan	Id. no. 790414

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15.	Warya Mirza Sherine	1968	Student	21.02.1991	Security	Kirkuk, Rahimawa	Id. no. 493779
16.	Farce Saber Ismahil	1975	Driver	24.08.1991	Security	Arbil, Askawa	
17.	Abdulkhaliq Saber Karim	1969	Worker	21.02.1991	Security	Arbil, Tayrawa	Id. no.M522196
18.	Aziz Rashid Tallah	1962	Worker	21.02.1991	Security	Arbil, Etika	Id. no. 459010
19.	Ibrahim Khalil Karim	1955	Driver	02.04.1991	Security	Arbil, Jayshelsabi	Id. no. 895792
20.	Khalid Sediq Ismahil	1967	Worker	03.04.1991	Security	Arbil, Alaskari	Id. no. 056047
21.	Assad Ahmad Abdullah	1957	Worker	01.04.1991	Security	Arbil, Nawroz	Id. no. 324491
22.	Bezad Ali Abdullah	1969	Painter	01.04.1991	Security	Arbil, Neshteman	
23.	Rashed Shaikh Mustafa	1962	Worker	02.04.1991	Security	Arbil, Eloukhwa	
24.	Qader Saddi Mohmd.	1961	Shepherd	20.08.1988	Security	Arbil,	
25.	Saber Saddi Mohmd.	1970	Shepherd	20.08.1988	Security	Arbil	
26.	Faqruddin Mohmd. Taleb	1955	Teacher	29.02.1991	Security	Arbil, Zallawa	
27.	Sameen Khezer Ramazan	1970	Worker	29.02.1991, at Kirkuk	Security	Arbil	Id. no.M117145
28.	Abdullah Rasol Khezer	1967	Worker	03.04.1991	Security	Arbil, Chilshat	Id. no. 702789
29.	Abbas Qader Ismahil	1967	Worker	21.02.1991, at Kirkuk	Security	Arbil, Saitaqaan	
30.	Bayaz Babaker Mohmd.	1950	Worker	02.04.1991	Security	Arbil, El-Mualemeen	Id. no. 509959
31.	Jamil Babaker Mohmd.	1968	Worker	02.04.1991	Security	Arbil, El-Mualemeen	Id. no.M434168
32.	Behujat Omar Khezer	1965	Worker	31.04.1991	Security	Arbil, Seedawa	Id. no. 632621
33.	Ahmad Mohmd. Taah	1969	Worker	31.03.1991	Security	Arbil, Seedawa	Id. no. 247394
34.	Fakher Abdulkarim Syeda	1968	Worker	04.07.1991	Security	Arbil, Majmu Korkosla	
35.	Hamid Abdullah Ali	1917	Farmer	31.03.1991	Security	Arbil, Jish El-Shabi	
36.	Changi Hamdamin Hussien	1974	Worker	01.04.1991	Security	Arbil, Qoshta	
37.	Sabah Mustafa Khalaf	1968	Worker	31.03.1991	Security	Arbil, Jish-Al Shabi	
38.	Abdul Karim Sulaiman	1928	Retired	23.12.1991	Security	Arbil, Arab Jadida	

39.	Challak Medi Kaak	1972	Student	04.04.1991	Security	Arbil, Shorish	
40.	Farooq Namwar Mohmd.	1932	Worker	29.03.1991	Security	Arbil, Alaskari	
41.	Fakher Noori Rahman	1971	Student	06.04.1991, at Kirkuk	Security	Kirkuk	Id. no. 643451
42.	Hares Khezer Faqi Ahman	1972	Worker	02.04.1991	Security	Arbil, Askawa	
43.	Sediqe Mohmd. Ahmad	1955	Farmer	10.07.1991, at Darato	Security	Arbil, Darato	
44.	Ali Mohmd. Ahmad	1948	Farmer	10.07.1991, at Darato	Security	Arbil, Darato	
45.	Shaker Reza Ahmad	1953	Worker	04.04.1991	Security	Arbil, Alarab	
46.	Showan Reza Ahmad	1971	Student	01.10.1991	Security	Arbil, Nashtehan	
47.	Fazel Samad Mesha Naq	1965	Student	02.04.1991	Security	Arbil, Alshat	
48.	Ahmad Murad Aziz	1928	Worker	02.07.1991, at Yaqoba	Security	Arbil	
49.	Bahawuddin Ali Mohmd.	1970	Shepherd	09.02.1991,at Qoshtapa	Security	Arbil, Qoshtapa	
50.	Ozad Sulaiman Wasman	1971	Worker	11.09.1991, at Kirkuk	Security	Arbil, Shorish	Id. no. 958765
51.	Faisal Rahman Mohmd. Ali	1970	Unemployed	07.04.1991	Security	Arbil, Tyrawa	Id. no.M987560
52.	Ismahil Saber Sayed	1952	Driver	20.09.1991, at Bagdad	Security	Arbil, 92	Id. no. 1796
53.	Rahman Hassan Peerdaoud	1969	Worker	01.04.1991	Security	Arbil, Fetkawa	Id. no. 468480
54.	Loqman Seerwan Mohmd.	1966	Driver	09.02.1991	Security	Kirkuk, Rahimawa	Id. no. 756953
55.	Saboor Yasin Saber	1965	Worker	26.02.1991, at Kirkuk	Security	Arbil, Kumran	
56.	Peerdaoud Sharif Ismahil	1959	Driver	02.04.1991	Security	Arbil, Tajeel	Id. no. 528213
57.	Omar Mohmd. Rashid Ibrahim	1939		10.04.1991	Security	Arbil, Saitaqaan	Id. no.G332501
58.	Shaban Mohmd. Ahmad	1972	Worker	10.04.1991	Security	Kirkuk, Saterlo	
59.	Ibrahim Khalil Karim	1955	Driver	02.04.1991	Security	Arbil, Jesh Sabe	
60.	Mohmd. Ahmad Fiqee Hassan	1975	Student	01.04.1991	Security	Arbil, Dara Toa	Id. no. 458775
61.	Sherzad Karim Abdullah	1969	calligraph	01.04.1991	Security	Arbil, Jamhuri	Id. no. 432752
62.	Khalil Hassan Moloud	1969	Worker	21.02.1991	Security	Arbil, Teyrawa	

63.	Jung Samad Amin Hussien	1974	Worker	01.04.1991	Security	Arbil, Qoshta, Majmu Qodsi	
64.	Ibrahim Sayed Ali	1972	Worker	12.02.1991	Security	Kirkuk	
65.	Ramazan Abubaker Sediqe	1971	Worker	12.02.1991	Security	Arbil, Bezlawa	Id. no.M893561
66.	Khalid Mustafa Ahmad	1961	Tailor	02.04.1991	Security	Arbil, Alshat	Id. no. 247538
67.	Omar Ali Abdullah	1969	Student	04.04.1991	Security	Arbil, Majmuhenan	
68.	Saleem Ali Abdullah	1974	Student	04.04.1991	Security	Arbil, Majmuhenan	
69.	Meqdad Nabi Ahmad	1972	Unemployed	09.02.1990	Security	Arbil, Shoresh	Id. no. 029830
70.	Nejad Mahma Ramazan	1978	Student	21.02.1991	Security	Arbil, Alhamal	
71.	Mahmoud Hassan Ahmad	1970	Student	28.02.1987	Security	Arbil, Dara Toa	
72.	Amir Taher Rashed	1972	Unemployed	07.02.1991	Security	Kirkuk, Rahimawa	
73.	Salahuddin Abdullah Saleh	1950	Employee	01.04.1991	Security	Arbil, Sekawa	
74.	Abdulkhaliq Mohmd. Khezer	1962	Unemployed	21.02.1991	Security	Kirkuk, Rahimawa	
75	Jawar Nader Ismahil	1959	Worker	01.04.1991	Security	Arbil, Zanko	Id. no. 160723
76.	Ali Ahmad Mustafa	1940	Driver	28.08.1987	Security	Arbil, Dara Toa	
77.	Parwin Murad Khoor	1973	Housewife	01.04.1991	Security	Arbil, Alarab	Id. no. 526395
78.	Hepath Hama Suliman Mohmd.	1960	Housewife	00.00.1988	Security	Arbil, Al Infahal	
79.	Asmath Hama Suliman Mohmd.	1962	Housewife	00.00.1988	Security	Arbil, Al Infahal	
80.	Ghorbt Hama Suliman Mohmd.	1961	Housewife	00.00.1988	Security	Arbil, Al Infahal	
81.	Sami Hama Suliman Mohmd.	1978	Unemployed	00.00.1988	Security	Arbil, Al Infahal	
82.	Loogman Hama Suliman Mohmd	1979		00.00.1988	Security	Arbil, Al Infahal	
83.	Fahim Ahmad Kakul		housewife	00.00.1988	Security	Arbil, Al Infahal	
84.	Ghazi Rasoul Sofi	1972	Student	27.02.1991	Security	Arbil, Saitaqaan	
85.	Saleem Boles Ato	1945	Worker	21.02.1991	Security	Arbil, Askawa	
86.	Fars Mohmd. Qader	1957	Driver	21.02.1991	Security	Arbil, Alshat	
87.	Rezwan Jamil Mohmd.	1972	Worker	02.04.1991	Security	Arbil, Badawa	Id. no.H431087

88.	Wahab Qader Hoyez	1972	Farmer	02.04.1991	Security	Arbil, Seedawa	
89.	Ta Saber Karim	1942	Worker	04.04.1991	Security	Arbil, Tarzada	Id. no.O725435
90.	Karim Hussein Hassan	1960	Worker	04.04.1991	Security	Arbil, Balashawa	Id. no.J073617
91.	Shahab Ahmad Mullah Agha	1962	Worker	01.04.1991	Security	Arbil,	Id. no.B238331
92.	Naser Mohmd. Abdullah	1972	Worker	21.02.1991	Security	Arbil, Saddam	Id. no.O774272
93.	Muzafar Hussein Mohmd.Amin	1971	Worker	01.04.1991	Security	Arbil, Azadi	Id. no. 632036
94.	Azad Suliman Wasman	1971	Worker	01.01.1991, at Kirkuk	Security	Arbil, Shorish	
95.	Hassan Nori Khezer	1972	Worker	02.04.1991	Security	Arbil, Alshat	Id. no. 063820
96.	Hassan Osman Ibrahim	1919	Unemployed	21.02.1991	Security	Arbil, Khaniqa	
97.	Ta Hussein Ibrahim	1966	Worker	02.04.1991	Security	Arbil, Alshat	Id. no. 196260
98.	Mohmd. Nameq Qader	1966	Worker	02.04.1991	Security	Arbil, Belasawa	Id. no. 282570
99.	Akram Karim Omar	1973	Worker	02.04.1991	Security	Arbil, Saitaqaan	
100.	Nori Mohmd. Abdullah	1955	Farmer	17.12.1974, at Kobari	Security	Arbil, Dara Toa	
101.	Sherzad Ali Sowar	1969	Worker	04.04.1991	Security	Arbil, Saddam	Id. no.H431584
102.	Showan Mohmd. Chacoal	1968	Unemployed	01.04.1991	Security	Arbil, Saydawa	Id. no.N034851
103.	Jahanbakhshe Khezer Ali	1972	Worker	01.04.1991	Security	Arbil, Saydawa	
104.	Mohmd. Hassan Aziz	1965	Employee	12.02.1991	Security	Arbil, Saydawa	Id. no.N418960
105.	Ahmad Qasem Yahya	1961	Worker	05.04.1991	Security	Kirkuk, Al Bace	
106.	Amad Yuonus Khezer	1972	Student	05.04.1991	Security	Kirkuk, Arafa	
107.	Idrece Shaker Mohmd.	1970	Worker	01.04.1991	Security	Oqra, Eshwa	Id. no. 274062
108.	Sherwan Mohmd. Jakol	1965	Unemployed	01.04.1991	Security	Arbil, Saydawa	
109.	Ismahil Alli fiqi Ahman	1954	Tailor	02.04.1991	Security	Arbil, Mohalemeen	Id. no. 497687
110.	Farhad Faiz Hussein	1969	Worker	01.04.1991	Security	Arbil, Saydawa	Id. no. 833123
111.	Fatah Saber Aziz Ali	1972	Worker	16.02.1991	Security	Kirkuk	

112.	Idrece Shaker Mohmd.	1970	Worker	21.02.1991	Security	Arbil, Jesh Sabi	Id. no.J725758
113.	Razgar Aziz Moama	1965	Blacksmith	01.04.1991	Security	Arbil, Tayrawa	Id. no.H009700
114.	Yunous Saber Rasool	1970	Worker	01.04.1991	Security	Arbil, Saitaqaan	Id. no.H658697
115.	Azad Fawa Abdullah	1961	Worker	21.04.1991	Security	Arbil	Id. no.L823724
116.	Sertep Mehmod khezer	1964	Worker	05.04.1991	Security	Kirkuk, Arafa	
117.	Sadeq Jahfar Qader	1975	Worker	02.04.1991	Security	Arbil, Azadi	Id. no.M724320
118.	Osman Abdullah Mustafa	1929	Retired	02.04.1991	Security	Arbil, Tayrawa	
119.	Ahmad Mullah Khezer	1927	Retired	02.04.1991	Security	Arbil, Mahta	Id. no. 380065
120.	Abdullah Khezer Rasoul	1971	Worker	01.04.1991	Security	Arbil, Saitaqaan	Id. no.M548894
121.	Farho Samad Ahola	1969	Worker	04.04.1991	Security	Arbil, Belasawa	Id. no.H858195
122.	Mohmd. Hadi Qader	1971	Student	01.04.1991	Security	Arbil, Mufti	Id. no.H001525
123.	Nazem Nori Khezer	1960	Worker	02.04.1991	Security	Arbil, Sharta	Id. no.N480806
124.	Rebwa Aziz Mama	1969	Blacksmith	01.04.1991	Security	Arbil	Id. no. 009699
125.	Sediq Qarani Aziz	1966	Lab. Asst.	01.04.1991	Security	Arbil, Saitaqaan	
126.	Abdulfatah Tawfiq Salahe	1945	Retired	26.02.1991	Security	Arbil, Fetkawa	
127.	Behzad Amin Hayder	1971	Worker	21.02.1991	Security	Arbil, Eloukhwa	
128.	Manaf Ta Ahmer	1950	Technician	26.02.1991	Security	Arbil, Alshat	
129.	Mohmd. Hussein Mehmoud	1973	Worker	02.04.1991	Security	Arbil, Alshat	Id. no. 439299
130.	mozafar Abdulkarim Qader	1971	Soldier	03.04.1991	Security	Arbil, Saddam	Id. no. 616772
131.	Mohmd. maoloud Khezer	1970	Worker	31.02.1991	Security	Arbil, Koran	Id. no.M658620
132.	Sayfuddin Omar Khezer	1972	Worker	31.03.1991	Security	Arbil, Tayrawa	Id. no. 904657
133.	Saleem Yolser Atoo	1945	Farmer	01.04.1991	Security	Arbil, Askawa	
134.	Nazem Kamal Osman	1972	Worker	31.03.1991	Security	Arbil, Koran	Id. no.O949428
135.	Mohmd. Abdullah Waso	1954	Farmer	00.00.1988	Security	Arbil, Al Olama	

136.	Sayed Abdullah Waso	1956	Farmer	00.00.1988	Security	Arbil, Al Olama	
137.	Qader Abdullah Waso	1952	Farmer	00.00.1988	Security	Arbil, Al Olama	
138.	Mohmd. Abdulrahman Qader	1971	Farmer	01.04.1991	Security	Arbil, Saitaqaan	Id. no.0359377
139.	Abdulqader Samad Amin Qader	1949	Worker	22.05.1991	Security	Arbil, Al Resala	
140.	Loqman Qader Samad Amin	1967	Worker	15.06.1987	Security	Arbil, Dara Toa	
141.	Mozafar Abdulwahed Sayed	1968	Worker	02.04.1991	Security	Arbil, Salahuddin	Id. no. 629331
142.	Yousof Mustafa Ali	1966	Farmer	04.04.1991	Security	Arbil, Beshlawa	Id. no. 802936
143.	Falah Mohsen Rahmatulla	1967	Police	12.09.1991	Security	Arbil, Alzareta	
144.	Sediqe Samad Sorsamad Amin	1955	Driver	20.03.1991	Security	Arbil, Alshat	Id. no. 518061
145.	Farhad Saber Qader	1966	Deserter	09.03.1991	Security	Arbil, Tayrawa	
146.	Jahfar Hashem Suliman	1975	Worker	01.03.1991	Security	Arbil, Al Askari	
147.	Ismahil Taher Qader	1967	Worker	01.04.1991	Security	Arbil, Saitaqaan	
148.	Anwar Maoloud Samad	1951	Peasant	21.02.1991	Security	Arbil, Azad	Id. no. 286263
149.	Abdulkhaleq Mohmd. Khezer	1962	Worker	12.02.1991, at Kirkuk	Security	Arbil, Dara Toa	
150.	Anwar Omar Abdullah	1962	Nurse	21.03.1991	Security	Kirkuk, Showan	
151.	Kawa Abdulhadi Baba	1968	Worker	21.03.1991	Security	Kirkuk, Rahimawa	
152.	Sherzad Mohmd. Waso	1967		28.03.1991	Police	Arbil, Saitaqaan	Id. no.N899744
153.	Nader Abdullah Nader	1969	Worker	02.04.1991	Police	Arbil, Beshlawa	Id. no.N800213
154.	Mohmd. Rahim Shokoor Ali	1964	Elect'n	01.04.1991	Police	Kirkuk, Begar	
155.	Mohmd. Hassan Towfiq	1971	Student	12.05.1991	Police	Arbil, Al Arab	Id. no. 184455
156.	Ali Abass Amin	1959	Driver	12.03.1991	Police	Arbil, Razgari	
157.	Mohmd. Aziz Mohmd.	1970	Student	20.03.1991	Police	Arbil, Razgari	
158.	Hadi Mohmd. Ghareeb	1972	Worker	02.04.1991	Police	Kirkuk	

159.	Mohmd. Rafiq Towfiq	1962	Worker	02.04.1991	Security	Arbil, Alshat	Id. no.N203409
160.	Abdulkarim Rafiq Towfiq	1965	Worker	02.03.1991	Security	Arbil, Alshat	Id. no.N203410
161.	Ismahil Sadeq Jamal	1964	Worker	01.04.1991	Security	Arbil, Seydawa	Id. no.J860948
162.	Maqdia Karim Mustafa	1970	Worker	01.04.1991	Security	Arbil, Eloukhwa	
163.	Sarteeb Mahmoud Hazer Qader	1964	Worker	05.04.1991	Security	Kirkuk	
164.	Chato Sadeq Jamal	1954	Worker	01.04.1991	Security	Arbil, Seydawa	Id. no. 639733
165.	Samayekh Jahfar Sayed	1967	Unemployed	21.02.1991	Security	Kirkuk, Almaz	
166.	Karim Mohmd. Amin Abdullah	1968	Worker	21.02.1991	Security	Arbil, Saitaqaan	
167.	Fouad Ahmad Faqir Hassan	1971	Worker	01.04.1991	Security	Arbil, Qoshta	Id. no. 222735
168.	Ahmad Hussein Peerdaoud	1972	Worker	01.04.1991	Security	Arbil, Fetkawa	Id. no. 470098
169.	Khadija Mohiuddin Khezer	1956	Housewife	21.02.1991	Security	Arbil, Makhmor	
170.	Mohmd. Saleem Mustafa	1952	Employee	01.04.1991	Security	Arbil,	
171.	Mahmend Ahmed Hussein	1957	Worker	19.04.1991, at kirkuk	Security	Arbil, Askari	
172.	Omar Ali Mohmd.	1968	Driver	18.03.1991	Security	Kirkuk, Rahimawa	
173.	Khadija Mohiuddin Khoor	1956	Housewife	31.03.1991	Security	Arbil, Razgari	
174.	Safeen Osman Ismahil	1974	Student	01.04.1991	Security	Arbil, Bariti	
175.	Kamran Osman Ismahil	1972	Student	01.04.1991	Security	Arbil, Bariti	
176.	Arkan Jalal Assad	1972	Student	01.04.1991	Security	Arbil, Dorelzobat	Id. no. 631480
177.	Bahram Qader Hassan	1931	Worker	21.02.1991	Security	Arbil, Saitaqaan	Id. no. 160125
178.	Zarar Jalal Hama	1951	Worker	01.04.1991	Security	Arbil, Sama Alislam	Id. no. 606417
179.	Jamal Shamsuddin Yaseen	1972	Worker	12.03.1991	Security	Arbil, Goran	Id. no. 484765
180.	Abdul Khaleq Ahmad Ali	1965	Worker	02.04.1991	Security	Arbil, Kalkana	Id. no.N204096
181.	Saman Hassan Khezer	1960	Soldier	22.04.1991	Security	Arbil, Goran	Id. no. 552669

182.	Delshad Jamal Samad	1965	Worker	04.04.1991	Security	Arbil, Sajed Alialan	Id. no.N200107
183.	Delshad Sediqe Mossa	1963	gratuated	21.02.1991	Security	Arbil, Mahala Shohada	
184.	Seerwan Saber Baker	1973	Worker	21.02.1991	Security	Arbil, Badawa	Id. no. 693562
185.	Serwan Hassan Ahmad	1961	Soldier	01.04.1991	Security	Arbil, Ronahi	Id. no. 551036
186.	Omar Junid Abdulkarim	1971	Student	01.04.1991	Security	Arbil, Barati	Id. no. 971656
187.	Haqal Mohsen Khorsheed	1971	Worker	01.04.1991	Security	Arbil, Mofti	Id. no.O288259
188.	Bazar Saber Mohmd. Amin	1972	Student	01.04.1991	Security	Arbil, Darato	
189.	Afan Osman Mohmd.	1968	Worker	31.03.1991	Security	Arbil, Alamhal	
190.	Omar Jasem Mohmd.	1939	Retired	14.12.1991	Security	Kirkuk, Rhimawa	
191.	Hussein Abdullah Maam Qader	1972	Worker	01.04.1991	Security	Arbil, Belasawa	Id. no.N668928
192.	Saber Majed Qader	1970	Worker	02.04.1991	Security	Arbil, Shatawa	Id. no. 284865
193.	Abdulsamad Mohmd. Ali	1959	Soldier	30.08.1988	Security	Arbil, Madrasa Alftoa	
194.	Talha Abdullah Sayed	1955	Driver	27.02.1991	Security	Arbil, Saddam	
195.	Nayef Saleem Mohmd. Amin	1970	Soldier	21.02.1991	Security	Arbil, Darato	
196.	Salah Mohmd. Ahmad Aqeel	1969	Student	01.10.1988	Security	Arbil, Koran	
197.	Shaekh Karim Shaekh	1922	Unemployed	21.02.1991	Security	Arbil, Saddam	
198.	Salahuddin Aziz	1970	Soldier	21.02.1991	Security	Arbil, Fetkawa	Id. no.M099320
199.	Wali Aziz Masroof	1940	Worker	01.04.1991	Security	Arbil, Belasawa	Id. no. 514287
200.	Jamal Jalal Khezer	1961	Worker	21.03.1991	Security	Arbil, Saddam	Id. no. 401333
201.	Wahab Qader Hoyez	1972	Worker	01.04.1991	Security	Arbil, Alhan	
202.	Yaseen Abdulrahman Mohmd.	1964	Worker	01.04.1991	Security	Arbil, Fetkawa	
203.	Faqed Rasool Ismahil	1972	Student	29.02.1991	Security	Arbil, Tayrawa	

204.	Osman Qarni Nori	1972	Soldier	01.04.1991	Security	Arbil, Saddam	
205.	Zaher Ahmad Nabi	1970	Worker	02.04.1991	Security	Arbil, Saitaqaan	
206.	Gharib Omar Mahroof	1952	Worker	01.03.1991	Security	Arbil, Tasbeh	Id. no.B034861
207.	Jamal Assad Qader	1969	Soldier	21.02.1991	Security	Arbil, Eskan	Id. no. 831814
208.	Kamal Assad Qader	1966	Soldier	21.02.1991	Security	Arbil, Eskan	Id. no. 647627
209.	Haqal Taher Rahman	1971	Soldier	02.04.1991	Security	Arbil, Altalemeen	Id. no.H431289
210.	Qasem Peerdaoud Hussein	1968	Soldier	01.04.1991	Security	Arbil, Fetkawa	Id. no.N050420
211.	Shahkhwan Abdullah Nader	1968	Soldier	02.04.1991	Security	Arbil, Shahiddan	
212.	Houshang Qarni Nori	1971	Soldier	01.04.1991	Security	Arbil, Saddam	
213.	Saleem Suliman Hussein	1962	Soldier	02.04.1991	Security	Arbil, Altalemeen	
214.	Loqman Samad Hamad	1971	Soldier	03.04.1991	Security	Arbil, Tasbeh	
215.	Abdullah Ahmad Karim	1968	Soldier	02.04.1991	Security	Arbil, Askari	
216.	Idrece Ismahil Mohmd.	1972	Athlete	21.02.1991	Security	Arbil, Tayrawa	
217.	Tawfiq Mohmd. Hassan	1974	Worker	02.04.1991	Security	Arbil, Badawa	
218.	Juma Omar Khezer	1970	Worker	01.04.1991	Security	Arbil, Qalha	
219.	Khalil Najem Rustam	1957	Worker	01.04.1991	Security	Arbil, Kalgand	Id. no.J001412
220.	Samad Hassan Bayez	1968	Nurse	02.04.1991	Security	Arbil, Shatawa	Id. no.N899067
221.	Farhad Saber Omar	1972	Worker	02.04.1991	Security	Arbil, Shatawa	
222.	Farhad Saber Omar	1957	Worker	02.04.1991	Security	Arbil, Shatawa	
223.	Abuzayed Abdulrahman	1973	Student	01.04.1991	Security	Arbil, Fetkawa	
224.	Obeyed Abdulrahman	1971	Soldier	01.03.1991	Security	Arbil, Fetkawa	
225.	Hadi Abdulrahman Ismahil	1961	Worker	02.03.1991	Security	Arbil, Altalemeen	
226.	Seerwan Abdulrahman Ismahil	1968	Teacher	02.04.1991	Security	Arbil, Altalemeen	

227. Mehdi Abdulrahman Ismahil	1965	Worker	02.04.1991	Security	Arbil, Altalemeen	Id. no.N394277
228. Zeyad Rashed Sayed	1968	Worker	02.04.1991	Security	Arbil, Balasawa	
229. Kamal Osman Qader	1969	Nurse	01.04.1991	Security	Arbil, Fetkawa	
230. Ahmad Nori Maolood	1969	Worker	02.04.1991	Security	Arbil, Shorish	Id. no. 012468
231. Khezer Abubaker Khezer	1971	Soldier	21.02.1991	Security	Arbil, Tayrawa	
232. Farce Samad Mohmd.	1970	Blacksmith	01.04.1991	Security	Kirkuk, Andice	
233. Ali Abduljabar Mohmd. Ali	1957		02.04.1991,	Security	Arbil, Zakho	Id. no. 608485
234. Zahir Hamad Taha	1946	Agr.Eng.	12.10.1988, at Kirkuk	Security	Kirkuk Ranya	
235. Pakhshan Ghareeb Mustafa	1946	Arg.Eng.	12.10.1988, at Kirkuk	Security	Kirkuk Ranya	
236. Karwan Zahir	1972		12.10.1988, at Kirkuk	Security	Kirkuk Ranya	
237. Awara	1977		12.10.1988, at Kirkuk	Security	Kirkuk Ranya	
238. Taman Zahir	1982		12.10.1988, at Kirkuk	Security	Kirkuk Ranya	
239. Bery Zahir	1984		12.10.1988, at Kirkuk	Security	Kirkuk Ranya	
